

TEXAS BOARD OF ARCHITECTURAL EXAMINERS
Rules Committee Meeting Agenda

William P. Hobby State Office Building
333 Guadalupe Street
Tower II, Conference Room 350-L
Austin, Texas

Friday, July 25, 2014
9:00 A.M. to conclusion

1. Call to Order
2. Roll Call
3. Public Comment
4. Amend Rules 1.69, 3.69 and 5.79 relating to continuing education reporting requirements for the initial reporting period after registration or after reinstatement of registration
5. Registration of military service member, military veterans and expedited reciprocal registration of military spouses
6. Amend Rules 1.232, 3.232 and 5.242 relating to the penalty matrix for assessing sanctions for specified violations of laws enforced by the Board
7. Review and possibly revise Rules 1.147 and 3. 147 relating to the implementation of the Professional Services Procurement Act as it applies to a governmental entity's procurement of architectural and landscape architectural services
8. Review Rules 1.144, 3.144 and 5.154 relating to dishonest practices and possibly define or describe the term "intent" for purposes of enforcing the rule
9. Review Rule 1.52, relating to the Architectural Registration Examination Financial Assistance Fund and possibly amend Rule 7.10 to assess a fee upon architectural registration and renewal of architectural registration to provide funding for financial assistance to qualified applicants to cover the cost of the examination
10. Amend Rules 1.43, 3.43 and 5.53 to allow for extensions to the 5-year "rolling clock" deadline for passing registration examinations for architecture, landscape architecture and registered interior design
11. Adjourn

THE COMMITTEE RESERVES THE RIGHT TO CONDUCT BUSINESS IN CLOSED
SESSION AS ALLOWED BY CHAPTER 551, TEXAS GOVERNMENT CODE, THE
TEXAS OPEN MEETINGS ACT

Summary of Draft Rules
Rules 1.69, 3.69, and 5.79 – Continuing Education – Initial Period upon Registration or Reinstatement

Current Rule

The current Continuing Education rules were drafted when the educational reporting period coincided with the registration renewal period. The rules provided an exemption for the initial period of registration which is the time between registration and the end of the registrant's birth month – almost always a period shorter than a year. Thereafter, the registrant would report on her or his completion of continuing education upon renewing registration at the end of each registration period. The exemption ensured each initial registrant would have one full year to complete continuing education requirements. There are no exemptions for the initial registration period of a person who reinstates registration.

Since the adoption of the Continuing Education rules, the Board has modified the continuing education reporting period so that it no longer coincides with the registration renewal period. Upon renewal, each registrant confirms whether he or she completed the continuing education requirements for the immediately preceding calendar year. An initial registrant, upon his or her first renewal, may not have been registered for much, if any, of the preceding calendar year. The exemption for the “initial period of registration” does the registrant little or no good because the exemption does not coincide with the continuing education reporting period. Similarly, a recently reinstated registrant, upon first renewal of registration, may not have been registered for much, if any, of the preceding calendar year.

The continuing education reporting requirement assumes registration during the entire calendar year preceding the renewal of registration. For initial registrants and reinstated registrants, that assumption is usually incorrect. The registrant must certify compliance with continuing education requirements during a period which may predate registration and therefore the application of the requirement to the registrant.

Prospective Rules

The rules as amended would create an exemption for the period beginning upon the date of initial registration or the date of reinstatement of registration (as applicable) through the next December 31st following that date. The rules would shift the period of exemption to coincide with the period for which the registrant is to report continuing education compliance i.e. the calendar year preceding the date of registration renewal.

Note

The draft amendments are similar to the rules in other jurisdictions which generally create a continuing education exemption for first-time registrants. The exemptions coincide with the continuing education reporting periods. However, there is little consistency from state to state on the length of the reporting periods or the frequency for reporting on continuing education compliance.

RULE §1.69

Continuing Education Requirements

1 (f) An Architect may be exempt from continuing education requirements for any of the
2 following reasons:

3 (1) An Architect shall be exempt upon initial registration and upon reinstatement of
4 registration through December 31st of the calendar year of his/her initial or reinstated
5 registration [~~for his/her initial registration period~~];

RULE §3.69

Continuing Education Requirements

6 (f) A Landscape Architect may be exempt from continuing education requirements for any
7 of the following reasons:

8 (1) A Landscape Architect shall be exempt upon initial registration and upon
9 reinstatement of registration through December 31st of the calendar year of his/her initial or
10 reinstated registration [~~for his/her initial registration period~~];

RULE §5.79

Continuing Education Requirements

11 (f) A Registered Interior Designer may be exempt from continuing education requirements
12 for any of the following reasons:

13 (1) A Registered Interior Designer shall be exempt upon initial registration and upon
14 reinstatement of registration through December 31st of the calendar year of his/her initial or
15 reinstated registration [~~for his/her initial registration period~~];

Continuing Education Enabling Law

§ 1051.356. Continuing Education.

- (a) The board shall recognize, prepare, or administer continuing education programs for its certificate holders. A certificate holder must participate in the programs to the extent required by the board to keep the person's certificate of registration.
- (b) The continuing education programs:
 - (1) must include courses relating to sustainable or energy-efficient design standards; and
 - (2) may include courses relating to:
 - (A) health, safety, or welfare; or
 - (B) barrier-free design.
- (b-1) As part of a certificate holder's continuing education requirements for each annual registration period, the board by rule shall require the certificate holder to complete at least one hour of continuing education relating to sustainable or energy-efficient design standards.
- (c) The board may recognize the continuing education programs of:
 - (1) a nationally acknowledged organization involved in providing, recording, or approving postgraduate education; and
 - (2) any other sponsoring organization or individual whose presentation is approved by the board as qualifying in design or construction health, safety, or welfare.
- (d) A person is exempt from the continuing education requirements of this section if the person is, as of September 1, 1999, engaged in teaching the subject matter for which the person is registered under this subtitle as a full-time faculty member or other permanent employee of an institution of higher education, as defined by Section 61.003, Education Code.

Summary of Draft Rules Military Service

Background – Senate Bill 162 relating to military spouses and licensing of military personnel was passed by the 83rd Legislature in 2013. The bill amends Chapter 55, Texas Occupations Code, to require reciprocal registration of applications for licensure filed by spouses of active-duty military personnel. The pertinent requirements in the bill apply to all regulatory boards and the issuance of all licenses.

The bill requires licensing boards to issue a license to a military spouse applicant as soon as practicable after the application is filed. The bill also includes provisions requiring boards to issue notice of impending license renewals to licensees who are military spouses. It also mandates that the term of licensure shall be for the period established by law or agency rule or 12 months, whichever is longer.

The bill also requires licensing boards to give credit for verifiable military service, training or education to applicants who are military personnel or veterans. The credit may apply toward fulfilling education or experience requirements but not examination requirements. The requirement does not apply if the applicant holds a restricted license from another jurisdiction or has an unacceptable criminal history under the laws enforced by the licensing board.

Licensing boards are required to adopt rules to implement the requirements relating to (1) licensing military spouses and (2) licensing military service members and veterans. (A third set of requirements under Section 4 of the bill apply only to the Texas Commission of Law Enforcement and does not require any action by TBAE.)

Draft Rules – Current Board rules allow for reciprocal registration for applicants registered in other jurisdictions. Although there is no rule exclusively addressing reciprocal applications of military spouses, military spouses are able to apply for registration pursuant to these pre-existing rules. In order to implement the intent of the Legislature, the draft amendments to rules 1.22/3.22/5.32 require expedited treatment of applications for reciprocal registration from military spouses. The rules would require those applications be given priority over applications filed by applicants who are not military spouses. Current rules already comply with the bill's requirements regarding notice of registration renewal and the 12-month renewal period.

Draft rules 1.29/3.29/5.39 are new rules which require the Board to give credit for military service, training or education when considering the registration applications of military personnel or military veterans. The requirement to grant credit for military experience and education would not apply if the applicant has a restricted license from another jurisdiction or an unacceptable criminal history record.

The draft rules generally track rules issued by other regulatory boards. A sample of those rules is attached as a background document.

Draft Rules

Military Spouse Reciprocity

RULE §1.22 Registration by Reciprocal Transfer

1 (a) A person may apply for architectural registration by reciprocal transfer if the person
2 holds an architectural registration that is active and in good standing in another jurisdiction
3 and the other jurisdiction:

4 (1) has licensing or registration requirements substantially equivalent to Texas
5 registration requirements; or

6 (2) has entered into a reciprocity agreement with the Board that has been approved by the
7 Governor of Texas.

8 (b) In order to obtain architectural registration by reciprocal transfer, an Applicant must
9 demonstrate the following:

10 (1) the Applicant has:

11 (A) successfully completed the Architect Registration Examination (ARE) or another
12 architectural registration examination which the National Council of Architectural
13 Registration Boards (NCARB) has approved as conforming to NCARB's examination
14 standards; and

15 (B) successfully completed the requirements of the Intern Development Program (IDP)
16 or acquired at least three years of acceptable architectural experience following registration
17 in another jurisdiction; or

18 (2) the Applicant has been given Council Certification by NCARB and such Council
19 Certification is not currently in an expired or revoked status.

20 (c) Pursuant to §55.005, Texas Occupations Code, the Board shall expedite the processing
21 of an application for architectural registration by reciprocal transfer, if the Applicant is a
22 military spouse, and shall give priority to the applications of military spouses over other
23 Applicants.

24 (d)[(e)] An Applicant for architectural registration by reciprocal transfer must remit the
25 required registration fee to the Board within 60 days after the date of the tentative approval
26 letter sent to the Applicant by the Board.

RULE §3.22 Registration by Reciprocal Transfer

1 (a) A person may apply for landscape architectural registration by reciprocal transfer if the
2 person holds a landscape architectural registration that is active and in good standing in
3 another jurisdiction and the other jurisdiction:

4 (1) has licensing or registration requirements substantially equivalent to Texas
5 registration requirements; or

6 (2) has entered into a reciprocity agreement with the Board that has been approved by the
7 Governor of Texas.

8 (b) In order to obtain landscape architectural registration by reciprocal transfer, an
9 Applicant must demonstrate the following:

10 (1) the Applicant has:

11 (A) successfully completed the Landscape Architect Registration Examination (LARE)
12 or another landscape architectural registration examination which the Council of
13 Landscape Architectural Registration Boards (CLARB) has approved as conforming to
14 CLARB's examination standards or as being acceptable in lieu of the LARE; and

15 (B) acquired at least two (2) years of acceptable landscape architectural experience
16 following registration in another jurisdiction; or

17 (2) the Applicant currently holds a Council Certificate from CLARB that is in good
18 standing.

19 (c) Pursuant to §55.005, Texas Occupations Code, the Board shall expedite the processing
20 of an application for landscape architectural registration by reciprocal transfer, if the
21 Applicant is a military spouse, and shall give priority to the applications of military
22 spouses over other Applicants.

23 (d)[(e)] An Applicant for landscape architectural registration by reciprocal transfer must
24 remit the required registration fee to the Board within sixty (60) days after the date of the
25 tentative approval letter sent to the Applicant by the Board.

RULE §5.32 Registration by Reciprocal Transfer

1 (a) A person may apply for Interior Design registration by reciprocal transfer if the person
2 holds an interior design registration that is active and in good standing in another
3 jurisdiction and the other jurisdiction:

4 (1) has licensing or registration requirements substantially equivalent to Texas
5 registration requirements; or

6 (2) has entered into a reciprocity agreement with the Board that has been approved by the
7 Governor of Texas.

8 (b) In order to obtain Interior Design registration by reciprocal transfer, an Applicant must
9 demonstrate that the Applicant has:

10 (1) successfully completed the NCIDQ examination or another Interior Design
11 registration examination which the National Council for Interior Design Qualification
12 (NCIDQ) has approved as conforming to NCIDQ's examination standards or as being
13 acceptable in lieu of the NCIDQ examination; and

14 (2) acquired at least two years of acceptable Interior Design experience following
15 registration in another jurisdiction.

16 (c) Pursuant to §55.005, Texas Occupations Code, the Board shall expedite the processing
17 of an application for Interior Design registration by reciprocal transfer, if the Applicant is a
18 military spouse, and shall give priority to the applications of military spouses over other
19 Applicants.

20 (d)[(e)] An Applicant for Interior Design registration by reciprocal transfer must remit the
21 required registration fee to the Board within 60 days after the date of the tentative approval
22 letter sent to the Applicant by the Board.

23

Draft Rules

Military Service

Rule §1.29 Credit for Military Service

1 (a) Definitions.

2 (1) "Military service member" means a person who is currently serving in the armed
3 forces of the United States, in a reserve component of the armed forces of the United
4 States, including the National Guard, or in the state military service of any state.

5 (2) "Military veteran" means a person who has served in the Army, Navy, Air Force,
6 Marine Corps, or Coast Guard of the United States, or in an auxiliary service of one of
7 those branches of the armed forces.

8 (b) Registration eligibility requirements for applicants with military experience.

9 (1) Verified military service, training, or education will be credited toward the registration
10 requirements, other than an examination requirement, of an Applicant who is a military
11 service member or a military veteran.

12 (2) This subsection does not apply if the Applicant holds a restricted registration issued
13 by another jurisdiction or has an unacceptable criminal history.

Rule §3.29 Credit for Military Service

14 (a) Definitions.

15 (1) "Military service member" means a person who is currently serving in the armed
16 forces of the United States, in a reserve component of the armed forces of the United
17 States, including the National Guard, or in the state military service of any state.

18 (2) "Military veteran" means a person who has served in the Army, Navy, Air Force,
19 Marine Corps, or Coast Guard of the United States, or in an auxiliary service of one of
20 those branches of the armed forces.

21 (b) Registration eligibility requirements for Applicants with military experience.

22 (1) Verified military service, training, or education will be credited toward the registration
23 requirements, other than an examination requirement, of an Applicant who is a military
24 service member or a military veteran.

25 (2) This subsection does not apply if the Applicant holds a restricted registration issued
26 by another jurisdiction or has an unacceptable criminal history.

Rule §5.39 Credit for Military Service

1 (a) Definitions.

2 (1) "Military service member" means a person who is currently serving in the armed
3 forces of the United States, in a reserve component of the armed forces of the United
4 States, including the National Guard, or in the state military service of any state.

5 (2) "Military veteran" means a person who has served in the Army, Navy, Air Force,
6 Marine Corps, or Coast Guard of the United States, or in an auxiliary service of one of
7 those branches of the armed forces.

8 (b) Registration eligibility requirements for Applicants with military experience.

9 (1) Verified military service, training, or education will be credited toward the registration
10 requirements, other than an examination requirement, of an Applicant who is a military
11 service member or a military veteran.

12 (2) This subsection does not apply if the Applicant holds a restricted registration issued
13 by another jurisdiction or has an unacceptable criminal history.

AN ACT

relating to the occupational licensing of spouses of members of the military and the eligibility requirements for certain occupational licenses issued to applicants with military experience.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The heading to Chapter 55, Occupations Code, is amended to read as follows:

CHAPTER 55. LICENSING OF MILITARY SERVICE MEMBERS, MILITARY VETERANS, [~~LICENSE WHILE ON MILITARY DUTY~~] AND [~~FOR~~] MILITARY SPOUSES [SPOUSE]

SECTION 2. Section 55.001, Occupations Code, is amended by adding Subdivisions (1-a), (1-b), and (1-c) to read as follows:

(1-a) "Military service member" means a person who is currently serving in the armed forces of the United States, in a reserve component of the armed forces of the United States, including the National Guard, or in the state military service of any state.

(1-b) "Military spouse" means a person who is married to a military service member who is currently on active duty.

(1-c) "Military veteran" means a person who has served in the army, navy, air force, marine corps, or coast guard of the United States, or in an auxiliary service of one of those branches of the armed forces.

SECTION 3. Chapter 55, Occupations Code, is amended by adding Sections 55.005, 55.006, and 55.007 to read as follows:

Sec. 55.005. EXPEDITED LICENSE PROCEDURE FOR MILITARY SPOUSES. (a) A state agency that issues a license shall, as soon as practicable after a military spouse files an application for a license:

(1) process the application; and

(2) issue a license to a qualified military spouse applicant who holds a current license issued by another jurisdiction that has licensing requirements that are substantially equivalent to the licensing requirements in this state.

(b) A license issued under this section may not be a provisional license and must confer the same rights, privileges, and responsibilities as a license not issued under this section.

Sec. 55.006. RENEWAL OF EXPEDITED LICENSE ISSUED TO MILITARY SPOUSE.

(a) As soon as practicable after a state agency issues a license under Section 55.005, the state agency shall determine the requirements for the license holder to renew the license.

(b) The state agency shall notify the license holder of the requirements for renewing the license in writing or by electronic means.

(c) A license issued under Section 55.005 has the term established by law or state agency rule, or a term of 12 months from the date the license is issued, whichever term is longer.

Sec. 55.007. LICENSE ELIGIBILITY REQUIREMENTS FOR APPLICANTS WITH MILITARY EXPERIENCE. (a) Notwithstanding any other law, a state agency that issues a license shall, with respect to an applicant who is a military service member or military veteran, credit verified military service, training, or education toward the licensing requirements, other than an examination requirement, for a license issued by the state agency.

(b) The state agency shall adopt rules necessary to implement this section.

(c) Rules adopted under this section may not apply to an applicant who:

(1) holds a restricted license issued by another jurisdiction; or

(2) has an unacceptable criminal history according to the law applicable to the state agency.

SECTION 4. Subchapter G, Chapter 1701, Occupations Code, is amended by adding Section 1701.315 to read as follows:

Sec. 1701.315. LICENSE REQUIREMENTS FOR PERSONS WITH MILITARY SPECIAL FORCES TRAINING. (a) In this section, "special forces" means a special forces component of the United States armed forces, including:

(1) the United States Army Special Forces;

(2) the United States Navy SEALs;

(3) the United States Air Force Pararescue;

(4) the United States Marine Corps Force Reconnaissance; and

(5) any other component of the United States Special Operations Command approved by the commission.

(b) The commission shall adopt rules to allow an applicant to qualify to take an examination described by Section 1701.304 if the applicant:

(1) has served in the special forces;

(2) has successfully completed a special forces training course and provides to the commission documentation verifying completion of the course;

(3) completes a supplemental peace officer training course; and

(4) completes any other training required by the commission after the commission has reviewed the applicant's military training.

(c) Commission rules adopted under Subsection (b) shall include rules:

(1) to determine acceptable forms of documentation that satisfy the requirements of Subsection (b);

(2) under which the commission may waive any other license requirement for an applicant described by Subsection (b) based on other relevant military training the applicant has received, as determined by the commission, including intelligence or medical training; and

(3) to establish an expedited application process for an applicant described by Subsection (b).

(d) The commission shall review the content of the training course for each special forces component described by Subsection (a) and in adopting rules under Subsection (b) specify the training requirements an applicant who has completed that training course must complete and the training requirements from which an applicant who has completed that training course is exempt.

SECTION 5. (a) Sections 55.005, 55.006, and 55.007, Occupations Code, as added by this Act, apply only to an application for a license filed with a state agency as defined by Section 55.001, Occupations Code, on or after March 1, 2014. An application for a license filed before March 1, 2014, is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

(b) Each state agency as defined by Section 55.001, Occupations Code, shall adopt rules under Sections 55.005, 55.006, and 55.007, Occupations Code, as added by this Act, not later than January 1, 2014.

(c) Section 1701.315, Occupations Code, as added by this Act, applies only to an application for a license filed with the Commission on Law Enforcement Officer Standards and Education on or after March 1, 2014. An application for a license filed before March 1, 2014, is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

(d) The Commission on Law Enforcement Officer Standards and Education shall adopt rules under Section 1701.315, Occupations Code, as added by this Act, not later than January 1, 2014.

SECTION 6. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2013.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 162 passed the Senate on April 2, 2013, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 162 passed the House on May 2, 2013, by the following vote: Yeas 147, Nays 0, two present not voting.

Chief Clerk of the House

Approved:

Date

Governor

Reference Material

Military Service Rules of Other Regulatory Boards

Texas Board of Chiropractic Examiners

RULE §79.3 General Requirements for Licensure of Certain Military Spouses

(a) This section applies to an applicant who is the spouse of a person serving on active duty as a member of the armed forces of the United States.

(b) The Board may issue a license to an applicant described under subsection (a) of this section who:

(1) holds a current license issued by another state that has licensing requirements that are substantially equivalent to the requirements for a license; or

(2) within the five years preceding the application date held a license in this state that expired while the applicant lived in another state for at least six months.

(c) For the purposes of this section, the term "substantially equivalent" means that the jurisdiction where the applicant described under subsection (b) of this section is currently licensed has, or had at the time of licensure, equivalent practices and requirements in the following areas:

(1) scope of practice;

(2) continuing education;

(3) license renewal;

(4) enforcement practices;

(5) examination requirements;

(6) undergraduate education requirements; and

(7) chiropractic education requirements.

(d) The Board may allow an applicant described under subsection (b) of this section to demonstrate competency by alternative methods in order to meet the requirements for obtaining a license. The standard method of demonstrating competency is described in Chapter 71 of this title (relating to Applications and Applicants). In lieu of the standard method of demonstrating competency for a license, and based on the applicant's circumstances, the alternative methods for demonstrating competency may include any combination of the following as determined by the Board:

(1) education;

(2) continuing education;

(3) examinations (including the National Board of Chiropractic Examiners Parts I - IV and Physiotherapy, or the National Board of Chiropractic Examiners SPEC Examination);

(4) letters of good standing;

(5) letters of recommendation;

(6) work experience; or

(7) other methods required by the executive director.

(e) The executive director may issue a license by endorsement to an applicant described under subsection (b) of this section in the same manner as the Texas Department of Licensing and Regulation under §51.404 of the Texas Occupations Code.

(f) The applicant described under subsection (b) of this section shall submit an application for licensure and proof of the requirements under this section on a form and in a manner prescribed by the Board.

(g) The applicant described under subsection (b) of this section shall submit the applicable fee(s) required for a license.

(h) The applicant described under subsection (b) of this section shall undergo a criminal history background check.

Texas State Board of Dental Examiners

RULE §101.6

Dental Licensing for Military Service Members, Military Veterans, and Military Spouses

(a) Definitions.

(1) "Military service member" means a person who is currently serving in the armed forces of the United States, in a reserve component of the armed forces of the United States, including the National Guard, or in the state military service of any state.

(2) "Military spouse" means a person who is married to a military service member who is currently on active duty.

(3) "Military Veteran" means a person who has served in the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States, or in an auxiliary service of one of those branches of the armed forces.

(b) Military Service Members and Military Veterans. The Board shall give credit to an applicant who is a Military service member or Military veteran for any verified military service, training, or education toward the licensing requirements, other than an examination requirement, including, but not limited to, education, training, certification, or a course in basic life support. The Board may not give credit if the applicant holds a restricted license issued by another jurisdiction or has an unacceptable criminal history according to Texas Occupations Code, Chapter 53 (relating to Consequences of Criminal Conviction) or §101.8 of this title (relating to Persons with Criminal Backgrounds).

(c) Military Spouses.

(1) The Board shall process an application from a Military spouse as soon as practicable after receiving such application.

(2) The Board shall issue a license to a qualified Military spouse applicant who holds a current license issued by another jurisdiction that has licensing requirements that are substantially equivalent to the licensing requirements in this state. The initial license has the term established by §101.5 of this title (relating to Staggered Dental Registrations), or a term of 12 months from the date the license is issued, whichever term is longer.

(3) The Board shall notify in writing or by electronic means an individual granted a license under paragraph (2) of this subsection of the requirements for renewal.

(4) The Board may allow a Military spouse who within the five years preceding the application date held the license in this state that expired while the applicant lived outside of this state for at least six months, to demonstrate competency by alternative methods in order to meet the requirements for obtaining a dental license issued by the Board. For purposes of this section, the standard method of demonstrating competency is the specific examination, education, and/or experience required to obtain a dental license.

(5) In lieu of the standard method(s) of demonstrating competency for a dental license and based on the applicant's circumstances, the alternative methods for demonstrating competency may include any combination of the following as determined by the Board:

- (A) education;
- (B) continuing education;
- (C) examinations (written and/or practical);
- (D) letters of good standing;
- (E) letters of recommendation;
- (F) work experience; or
- (G) other methods required by the Executive Director.

(d) All applicants shall submit an application and proof of any relevant requirements on a form and in a manner prescribed by the Board.

(e) All applicants shall submit the applicable required fee(s).

(f) All applicants shall submit fingerprints for the retrieval of criminal history record information.

(g) A licensee is exempt from any penalty imposed by the Board for failing to renew the license in a timely manner if the individual establishes to the satisfaction of the Board that the individual failed to renew the license in a timely manner because the individual was on active duty in the United States armed forces serving outside the state of Texas.

(h) A licensee who is a member of the state military forces or a reserve component of the armed forces of the United States and is ordered to active duty by proper authority is entitled to an additional amount of time, equal to the total number of years or parts of years that the person serves on active duty, to complete:

- (1) any continuing education requirements; and
- (2) any other requirement related to the renewal of the person's license.

Texas Optometry Board

RULE §273.14

Licenses for Military and Military Spouse

(a) Definitions.

(1) "Military service member" means a person who is currently serving in the armed forces of the United States, in a reserve component of the armed forces of the United States, including the National Guard, or in the state military service of any state.

(2) "Military spouse" means a person who is married to a military service member who is currently on active duty.

(3) "Military veteran" means a person who has served in the army, navy, air force, marine corps, or coast guard of the United States, or in an auxiliary service of one of those branches of the armed forces.

(b) License eligibility requirements for applicants with military experience.

(1) Verified military service, training, or education will be credited toward the licensing requirements, other than an examination requirement, of an applicant who is a military service member or military veteran.

(2) This subsection does not apply if the applicant holds a restricted license issued by another jurisdiction or has an unacceptable criminal history.

(c) The Texas Occupations Code, §55.004 and §55.004, provides different methods of licensure for military spouses.

(1) Applications Under Texas Occupations Code §55.005, Expedited Licensing Procedure.

(A) Application.

(i) The military spouse applicant must be licensed in good standing as a therapeutic optometrist or the equivalent in another state, the District of Columbia, or a territory of the United States that has licensing requirements that are substantially equivalent to the requirements of the Texas Optometry Act.

(ii) The military spouse applicant shall submit a completed Licensure without Examination application, including the submission of a completed Federal Bureau of Investigation fingerprint card provided by the Board, official license verifications from each state in which the applicant is or was licensed, a certified copy of the applicant's birth certificate, a certified copy of the optometry school transcript granting the applicant a doctor of optometry degree, and proof of the applicant's status as a military spouse.

(iii) An application fee in the same amount as the application fee set out in §273.4 of this title must be submitted with the application.

(iv) A license issued under this subsection shall be a license to practice therapeutic optometry with the same obligations and duties required of a licensed therapeutic optometrist and subject to the same disciplinary requirements for that license.

(B) License Renewal

(i) A license issued under this subsection shall expire on the first day of the calendar year at least twelve months subsequent to the date the license is issued.

(ii) Prior to renewing the license for the first time, the military spouse licensee shall take and pass the Texas Jurisprudence Examination.

(iii) With the exception of clause (ii) of this subparagraph, the requirements for renewing the license are the same as the requirements for renewing an active license.

(2) Applications Under Texas Occupations Code §55.004, Alternative Licensing Procedure.

(A) Requirements for license for military spouse applicant currently licensed in another state.

(i) The military spouse applicant must be licensed in good standing as a therapeutic optometrist or the equivalent in another state, the District of Columbia, or a territory of the United States that has licensing requirements that are substantially equivalent to the requirements of the Texas Optometry Act.

(ii) The military spouse applicant shall submit a completed Licensure without Examination application, including the submission of a completed Federal Bureau of Investigation fingerprint card provided by the Board, official license verifications from each state in which the applicant is or was licensed, a certified copy of the applicant's birth certificate, a certified copy of the optometry school transcript granting the applicant a doctor of optometry degree, and proof of the applicant's status as a military spouse.

(iii) An application fee in the same amount as the application fee set out in §273.4 of this title must be submitted with the application.

(iv) Within six months of receiving a license under this subsection, the military spouse licensee shall take and pass the Texas Jurisprudence Examination.

- (B) Requirements for license for military spouse applicant not currently licensed to practice optometry who was licensed in Texas within five years of the application submission.
 - (i) The military spouse applicant's Texas license must have expired while the applicant lived in another state for at least six months.
 - (ii) The military spouse applicant shall submit a completed Licensure without Examination application, including the submission of a completed Federal Bureau of Investigation fingerprint card provided by the Board, official license verifications from each state in which the applicant is or was licensed, a certified copy of the applicant's birth certificate, a certified copy of the optometry school transcript granting the applicant a doctor of optometry degree, and proof of the applicant's status as a military spouse.
 - (iii) An application fee in the same amount as the application fee set out in §273.4 of this title must be submitted with the application.
 - (iv) Within six months of receiving a license under this subsection, the military spouse licensee shall take and pass the Texas Jurisprudence Examination.
 - (v) The Board may allow a military spouse applicant under this subparagraph to demonstrate competency by alternative methods which may include any combination of the following as determined by the Board: education, continuing education, examinations (written and/or practical), work experience or other methods required by the Executive Director.
- (C) A license issued under this subsection shall be a license to practice therapeutic optometry with the same obligations and duties required of a licensed therapeutic optometrist and subject to the same disciplinary requirements for that license. The license expires on January 1, following the date a license is issued.
- (D) Renewal of license. The requirements for renewing the license are the same as the requirements for renewing an active license.

Texas Board of Licensure for Professional Medical Physicists

§ 601.24. Licensing of Spouses of Members of the Military

- (a) This section sets out the alternative license procedure for military spouse required under Texas Occupations Code, Chapter 55 (relating to License While on Military Duty and for Military Spouse).
- (b) The spouse of a person serving on active duty as a member of the armed forces of the United States who holds a current license issued by another state that has substantially equivalent licensing requirements shall complete and submit an application form and fee. In accordance with Texas Occupations Code, § 55.004(c), the executive secretary may waive any prerequisite to obtaining a license after reviewing the applicant's credentials and determining that the applicant holds a license issued by another jurisdiction that has licensing requirements substantially equivalent to those of this state.
- (c) The spouse of a person serving on active duty as a member of the armed forces of the United States who within the five years preceding the application date held the license in this state that expired while the applicant lived in another state for at least six months is qualified for licensure based on the previously held license, if there are no unresolved complaints against the applicant and if there is no other bar to licensure, such as criminal background or non-compliance with a board order.

Summary of Draft Amendments Penalty Matrix

Current Rule --The Penalty matrix is compiled within Rules 1.232/3.232/5.242, titled “Board Responsibilities.” (Attached as reference documents.) The matrix specifies a disciplinary action to be applied for listed violations of laws enforced by the Board. Each rule (at paragraph (k)) notes that an Administrative Law Judge or the Board may deviate from the sanction listed in the matrix if warranted under the circumstances of a particular case. In addition, the amount of the administrative penalty to be imposed is determined by reference to the administrative penalty schedule (Rules 1.177/3.177/5.187 attached as reference documents). Over time, many of the cross-references in the matrix have become incorrect as the rules listed have been amended or renumbered. Finally, the Board has in certain cases expressed the opinion that a different sanction should apply to certain offenses.

Draft Amendments --The draft amendments more specifically describe the conduct for which a sanction is imposed. For example, a category of offenses currently identified as “failure to uphold responsibilities to the profession” or “dishonest practices” would refer to specific conduct such as offering something of value in exchange for public work or conspiring to violate a law enforced by the Board. The draft corrects obsolete or incorrect cross-references to rule numbers. The draft amendments also modify sanctions for conduct which the Board has indicated should receive a more severe penalty. Also, the draft lists specific administrative penalty amounts for continuing education violations in the penalty matrix.

§1.232(j) -- Penalty Matrix -- Architects

Violation	Rule(s) Cited	Recommended Penalty
Unauthorized duplication of certificate of registration or failure to display certificate of registration as required	§1.62	Administrative penalty or reprimand
<u>Unlawful practice of architecture while registration is on emeritus status</u>	<u>§1.67(b)</u>	<u>Administrative penalty and cease and desist order</u>
Practice of architecture while registration is inactive	§1.68	<u>Administrative penalty and cease and desist order</u>
Failure to fulfill mandatory continuing education requirements	§1.69	Administrative penalty or suspension
<u>Failure to timely complete required continuing education program hours</u>	<u>§1.69(b)</u>	<u>Administrative penalty of \$500; subject to higher penalties or suspension for second or subsequent offenses</u>
<u>Falsely reporting compliance with mandatory continuing education requirements</u>	<u>§1.69(g)</u>	<u>Administrative penalty of \$700; subject to higher penalties or suspension for second or subsequent offenses</u>
Failure to use appropriate seal or signature	§1.102 §1.104(c)	Administrative penalty or reprimand
Failure to seal documents [or insert statement in lieu of seal as required]	§1.103[(a), (d), (f), (h)(2), (i)] §1.105[(a)(4)] §1.122(c),(e)	Administrative penalty or reprimand
Failure to mark [incomplete] documents issued for purposes other than regulatory approval, permitting or construction as required	§1.103(b)	Administrative penalty or reprimand
<u>Sealing or authorizing the sealing of a document prepared by another without Supervision and Control or Responsible Charge – “plan stamping”</u>	<u>§1.104(a) and (b)</u> <u>§1.122(c) and (e)</u>	<u>Suspension or revocation</u>
<u>Failure to take reasonable steps to notify sealing Architect of intent to modify that architect’s sealed documents</u>	<u>§1.104(d)</u>	<u>Administrative penalty or reprimand</u>
<u>Failure to indicate modifications or additions to a document prepared by another Architect</u>	<u>§1.104(b) and (d)</u>	<u>Suspension, administrative penalty, or reprimand</u>
Removal of seal after issuance of documents	§1.104(e)	Administrative penalty or reprimand
Failure to maintain a document for 10 years as required	§1.103(g) §1.105(b) §1.122(d)	Administrative penalty or reprimand
[Failure to notify the original design professional as required]	[§1.103(h)(1)]	[Administrative penalty or reprimand]
[Sealing a document prepared by a person not working under the respondent’s Supervision and Control (“plan stamping”)]	[§1.103(h)(3)] [§1.104(a)]	[Suspension or revocation]
Unauthorized use of a seal or a copy or replica of a seal or unauthorized	§1.104(b) and (c)	Administrative penalty, [or] reprimand, or suspension

modification of a document		
Violation of requirements regarding prototypical design	§1.105[(a)(1), (2), (3), (5)]	Administrative penalty, reprimand, or suspension
Failure to provide Statement of Jurisdiction	§1.106	Administrative penalty or reprimand
Failure to enter into a written agreement of association when required	§1.122	Administrative penalty or reprimand
Failure to exercise Supervision and Control over the preparation of a document as required	§1.122(c)	Suspension, [Ø] revocation, or refusal to renew registration
Failure to exercise Responsible Charge over the preparation of a document as required	§1.122(e)	Suspension, [Ø] revocation, or refusal renew registration
Failure of a firm, business entity, or association to register	§1.124(a) and (b)	Administrative penalty, cease and desist order, or both
Failure to timely notify the Board upon dissolution of a business entity or association of loss of lawful authority to offer or provide architecture	§1.124(c)	Administrative penalty, reprimand, or suspension
Offering or rendering the Practice of Architecture by and through a firm, business entity or association that is not duly registered	§1.124 §1.146(a)(2)(B)	Administrative penalty, cease and desist order, or both
Gross incompetency	§1.142	Suspension, [Ø] revocation, or refusal to renew registration
Recklessness	§1.143	Suspension, [Ø] revocation, or refusal to renew registration
Dishonest practice	§1.144(a), (c)	Suspension [Ø] revocation, or refusal to renew registration
<u>Offering, soliciting or receiving anything or any service as an inducement to be awarded publicly funded work</u> [Dishonest practice]	§1.144(b)	Suspension, or revocation, and payment of restitution [Administrative penalty or reprimand]
Conflict of interest	§1.145	Suspension, [Ø] revocation, or refusal to renew registration
<u>Participating in a plan, scheme or arrangement to violate the Act or rules of the Board</u> [Failure to uphold responsibilities to the architectural profession]	§1.146(a)	Administrative penalty, suspension, [Suspension-Ø] revocation, or refusal to renew registration
Failure to <u>provide information regarding an Applicant upon request; failure to report lost, stolen or misused architectural seal</u> [uphold responsibilities to the architectural profession]	§1.146(b), (c)	Administrative penalty or reprimand
<u>Submission of a competitive bid in violation of the Professional Services Procurement Act</u>	§1.147	Suspension or revocation
<u>Disclosure of fee information inconsistent</u> [Failure to act in a manner consistent] with the Professional Services Procurement Act	§1.147	Administrative penalty or reprimand
<u>Disclosure of information with the intent to</u>	§1.147	Suspension or revocation

<u>indirectly disclose fee information</u>		
Unauthorized practice or use of title "architect"	<u>§1.123</u> <u>§1.148</u>	<u>Administrative penalty, [Suspension, revocation, or] denial of registration, or refusal to renew, reinstate, or reactivate registration</u>
Criminal conviction	<u>§1.149</u>	Suspension or revocation
<u>Gross incompetence caused by substance abuse</u>	<u>§1.150</u>	<u>Indefinite suspension until respondent demonstrates terminating suspension will not imperil public safety</u>
Violation by Applicant <u>regarding unlawful use title "architect", unlawful practice, or criminal convictions</u>	<u>§1.148</u> <u>§1.149</u> <u>§1.151</u>	Reprimand, administrative penalty, suspension, rejection, denial of right to reapply, or <u>probationary initial registration</u>
Failure to submit a document as required by the Architectural Barriers Act	<u>§1.170</u>	Reprimand or administrative penalty
Failure to respond to a Board inquiry	<u>§1.171</u>	Administrative penalty
<u>Unlawfully engaging in construction observation of construction of architectural plans and specifications for a nonexempt building</u>	<u>§1.217</u>	<u>Administrative penalty, reprimand, denial registration or refusal to renew, reinstate, or reactivate registration</u>
<u>Failure to report course of action likely to have material adverse effect on safe use of building or failure to refuse to consent to the course of action</u>	<u>§1.216</u>	<u>Suspension, revocation or refusal to renew registration</u>

Rule 3.232(j) – Penalty Matrix – Landscape Architects

Violation	Rule(s) Cited	Recommended Penalty
Unauthorized duplication of certificate of registration or failure to display certificate of registration as required	§3.62	Administrative penalty or reprimand
<u>Unlawful practice of landscape architecture while registration is on emeritus status</u>	§3.67(b)	<u>Administrative penalty and cease and desist order</u>
Practice of landscape architecture while registration is inactive	§3.68	Administrative penalty
Failure to fulfill mandatory continuing education requirements	§3.69	Administrative penalty or suspension
<u>Failure to timely complete required continuing education program hours</u>	§3.69(b)	<u>Administrative penalty of \$500; subject to higher penalties or suspension for second or subsequent offenses</u>
<u>Falsely reporting compliance with mandatory continuing education requirements</u>	§3.69(g)	<u>Administrative penalty of \$700; subject to higher penalties or suspension for second or subsequent offenses</u>
Failure to use appropriate seal or signature	§3.102 §3.104(c)	Administrative penalty or reprimand
Failure to seal documents [or insert statement in lieu of seal as required]	§3.103[(a), (d), (f), (h)(2), (i)] §3.105 §3.122(c), (e)	Administrative penalty or reprimand
Failure to mark [incomplete] documents <u>issued for purposes other than regulatory approval, permitting or construction as required</u>	§3.103(b)	Administrative penalty or reprimand
<u>Sealing or authorizing the sealing of a document prepared by another without Supervision and Control or Responsible Charge – “plan stamping”</u>	§3.104(a) and (b) §3.122(c) and (e)	<u>Suspension or revocation</u>
<u>Failure to take reasonable steps to notify sealing Landscape Architect or intent to modify that Landscape Architect’s sealed documents</u>	§3.104(d)	<u>Administrative penalty or reprimand</u>
<u>Failure to indicate modifications or additions to a document prepared by another Landscape Architect</u>	§1.104(e)	<u>Administrative penalty or reprimand</u>
Removal of seal after issuance of documents	§3.104(e)	Administrative penalty or reprimand
Failure to maintain a document for 10 years as required	§3.103(g) §3.105(b) §3.122(d)	Administrative penalty or reprimand
[Failure to notify the original design professional as required]	[§3.103(h)(1)]	[Administrative penalty or reprimand]
[Sealing a document prepared by a person not working under the respondent’s Supervision and Control]	[§3.103(h)(3) §3.104(a)]	[Suspension or revocation]
Unauthorized use of a seal or a copy of a seal or <u>unauthorized</u> modification of a document	§3.104(b) and (c)	Administrative penalty, [or] reprimand <u>or suspension</u>
<u>Violation of requirements regarding prototypical design</u>	§3.105	<u>Administrative penalty, reprimand or suspension</u>

Failure to provide Statement of Jurisdiction	§3.105	Administrative penalty or reprimand
Failure to report a course of action taken against the respondent's advice as required	§3.106(d) [§3.105(b)]	[Administrative penalty, reprimand, or suspension] <u>Suspension, revocation or refusal to renew registration</u>
Failure to enter into a written agreement of association when required	§3.122	Administrative penalty or reprimand
Failure to exercise Supervision and Control over the preparation of a document as required	§3.122(c)	Suspension, [Ø] revocation, <u>or refusal to renew registration</u>
Failure to exercise Responsible Charge over the preparation of a document as required	§3.122(e)	Suspension, [Ø] revocation, <u>or refusal to renew registration</u>
Failure of a firm, business entity, or association to register	§3.124(a) and (b)	Administrative penalty, cease and desist order, or both
Failure to timely notify the Board upon dissolution of a business entity or association of loss of lawful authority to offer or provide landscape architecture	§3.124(c)	Administrative penalty, reprimand, or suspension
Offering or rendering Landscape Architecture by and through a firm, business entity or association that is not duly registered	§3.124 §3.146(a)(2)(B)	Administrative penalty, cease and desist order, or both
Gross incompetency	§3.142	Suspension, [Ø] revocation, <u>or refusal to renew registration</u>
Recklessness	§3.143	Suspension, [Ø] revocation, <u>or refusal to renew registration</u>
Dishonest practice	§3.144(a), (c)	Suspension Ø revocation, <u>or refusal to renew registration</u>
<u>Offering, soliciting or receiving anything or any service as an inducement to be awarded publicly funded work</u> [Dishonest practice]	§3.144(b)	<u>Suspension or revocation and payment of restitution</u> [Administrative penalty or reprimand]
Conflict of interest	§3.145	Suspension, [Ø] revocation, <u>or refusal to renew registration</u>
<u>Participating in a plans, scheme or arrangement to violate the Act or the rules of the Board</u> [Failure to uphold responsibilities to the landscape architectural profession]	§3.146(a)	<u>Administrative penalty, suspension, [Suspension or] revocation, or refusal to renew registration</u>
Failure to <u>provide information regarding an Applicant upon request; failure to report lost, stolen or misused landscape architectural seal</u> uphold responsibilities to the landscape architectural profession	§3.146(b), (c)	Administrative penalty or reprimand
<u>Submission of a competitive bid in violation of the Professional Services Procurement Act</u>	§3.147	<u>Suspension or revocation</u>
<u>Disclosure of fee information inconsistent</u> [Failure to act in a manner consistent] with the Professional Services Procurement Act	§3.147	Administrative penalty or reprimand
<u>Disclosure of information with the intent to indirectly disclose fee information</u>	§3.147	<u>Suspension or revocation</u>
Unauthorized practice or use of title "landscape architect"	§3.123 §3.148	<u>Administrative penalty, denial of registration, or refusal to renew, reinstate, or reactivate registration</u>

		[Suspension, revocation, or denial]
Criminal conviction	§3.149	Suspension or revocation
<u>Gross incompetence caused by substance abuse</u>	<u>§1.150</u>	<u>Indefinite suspension until respondent demonstrates terminating suspension will not imperil public safety</u>
Violation by Applicant <u>regarding unlawful of title “landscape architect”, unlawful practice, or criminal convictions</u>	§3.148 §3.149 §3.151	Reprimand, administrative penalty, suspension, rejection, denial of right to reapply, or probationary initial registration
Failure to submit a document as required by the Architectural Barriers Act	§3.170	Reprimand or administrative penalty
Failure to respond to a Board inquiry	§3.171	Administrative penalty

§5.242(j) – Penalty Matrix – Registered Interior Designers

Violation	Rule(s) Cited	Recommended Penalty
Unauthorized duplication of certificate of registration or failure to display certificate of registration as required	§5.72	Administrative penalty or reprimand
<u>Using the title “Registered Interior Designer” while on emeritus status</u>	§5.77(b)	<u>Administrative penalty and cease and desist order</u>
Practice of Interior Design while registration is inactive	§5.78	<u>Administrative penalty and cease and desist order</u>
Failure to fulfill mandatory continuing education requirements	§5.79	Administrative penalty or suspension
<u>Failure to timely complete required continuing education program hours</u>	§5.79(b)	<u>Administrative penalty of \$500; subject to higher penalties or suspension for second or subsequent offenses</u>
<u>Falsely reporting compliance with mandatory continuing education requirements</u>	§5.79(g)	<u>Administrative penalty of \$700; subject to higher penalties for second or subsequent offenses</u>
Failure to use appropriate seal or signature	§5.112 §5.114(c)	Administrative penalty or reprimand
Failure to seal documents [or insert statement in lieu of seal as required]	§5.113[(a) and (b)] §5.132(c) and (e)	Administrative penalty or reprimand
Failure to mark [incomplete] documents <u>issued for purposes other than regulatory approval, permitting or construction</u> as required	§5.113(b)	Administrative penalty or reprimand
<u>Sealing or authorizing the sealing of a document prepared by another without Supervision and Control</u>	§5.114(a) and (b) §5.132(c) and (e)	<u>Suspension or revocation</u>
<u>Failure to take reasonable steps to notify sealing Registered Interior Designer of intent to modify sealed documents</u>	§5.114(d)	<u>Administrative penalty or reprimand</u>
<u>Failure to indicate modifications to or portion of document prepared by Registered Interior Designer</u>	§5.114(b) and (d)	<u>Suspension, administrative penalty or reprimand</u>
Removal of seal after issuance of documents	§5.114(e)	Administrative penalty or reprimand
Failure to maintain a document for 10 years as required	§5.113(c) §5.132(d)	Administrative penalty or reprimand
[Failure to make reasonable efforts to notify the original design professional as required]	[§5.114(d)]	[Administrative penalty or reprimand]
[Sealing a document prepared by a person not working under the respondent’s Supervision and Control]	[§5.114(a)]	[Suspension or revocation]
Unauthorized use of a seal <u>or a copy of a seal</u> or <u>unauthorized modification of a document</u>	§5.114(b) and (c)	Administrative penalty, [or] reprimand, or suspension
Failure to provide Statement of Jurisdiction	§5.115(a)	Administrative penalty or reprimand
Failure to report a course of action taken against the respondent’s advice as required	§5.115(d)[(b)]	[Administrative penalty, reprimand, or suspension] <u>Suspension, revocation or refusal to renew registration</u>

Failure to enter into a written agreement of association when required	§5.132	Administrative penalty or reprimand
Failure to exercise Supervision and Control over the preparation of a document as required	§5.132(c)	Suspension, or revocation, or refusal to renew registration
Failure to exercise Responsible Charge over the preparation of a document as required	§5.132(e)	Suspension, or revocation, or refusal to renew registration
Failure of a firm, business entity, or association to register	§5.134(a) and (b)	Administrative penalty or reprimand
Failure to timely notify the Board upon dissolution of a business entity or association or upon loss of the entity or association to use the title "registered interior designer"	§5.134(c)	Administrative penalty, cease and desist order, or both
Representing firm, business entity or association which is not registered as Registered Interior Designer firm	§5.134	Administrative penalty, cease and desist order, or both
Gross incompetency	§5.152	Suspension, or revocation, or refusal to renew registration
Recklessness	§5.153	Suspension, or revocation, or refusal to renew registration
Dishonest practice	§5.154(a), (c)	Suspension, or revocation, or refusal to renew registration
<u>Offering, soliciting or receiving anything or any service as an inducement to be awarded publicly funded work</u> [Dishonest practice]	§5.154(b)	Suspension or revocation and payment of restitution [Administrative penalty or reprimand]
Conflict of interest	§5.155	Suspension, or revocation or refusal to renew registration
<u>Participating in a plan, scheme, or arrangement to violate the Act or rules of the Board</u> [Failure to uphold responsibilities to the Interior Design profession]	§5.156(a)	Administrative penalty, suspension, [Suspension or] revocation, or refusal to renew registration
<u>Failure to provide information regarding an Applicant upon request; failure to report lost, stolen, or misused registered interior design seal</u> [uphold responsibilities to the Interior Design profession]	§5.156(b), (c)	Administrative penalty or reprimand
Unauthorized practice or use of title "registered interior designer"	§5.133 §5.157	Administrative penalty, [Suspension, revocation, or] denial of registration, or refusal to renew, reinstate, or reactive registration
Criminal conviction	§5.158	Suspension or revocation
<u>Gross incompetency caused by substance abuse</u>	§5.159	Indefinite suspension until respondent demonstrates terminating suspension will not imperil public safety
<u>Violation by Applicant regarding unlawful use of the title "registered interior designer, unlawful practice or criminal convictions</u>	§5.157 §5.158 §5.160	Reprimand, administrative penalty, suspension, rejection, denial of right to

		reapply, or probationary initial registration
Failure to submit a document as required by the Architectural Barriers Act	§5.180	Reprimand or administrative penalty
Failure to respond to a Board inquiry	§5.181	Administrative penalty

Reference Documents – Penalty Matrix

RULE §1.232 Board Responsibilities

(a) The Board shall investigate Contested Case matters and attempt to resolve Contested Cases informally as provided in Subchapter I of the Rules and Regulations of the Board. However, if a Contested Case is not settled informally pursuant to Subchapter I, it shall be referred to SOAH for a formal hearing to determine whether there has been a violation of any of the statutory provisions or rules enforced by the Board.

(b) A formal hearing shall be conducted in accordance with the Rules of Procedure of SOAH.

(c) After a formal hearing of a Contested Case, the SOAH administrative law judge who conducted the formal hearing shall prepare a proposal for decision and submit it to the Board so that the Board may render a final decision with regard to the Contested Case. The proposal for decision shall include findings of fact and conclusions of law.

(d) Any party of record in a Contested Case who is adversely affected by the proposal for decision may file exceptions and briefs within 20 days after the date of service of the proposal for decision. Replies to exceptions and briefs may be filed within 15 days after the date for the filing of exceptions and briefs. Exceptions, briefs, and replies shall be filed with the Board and copies shall be served on the administrative law judge and on all other parties in the same manner as for serving other documents in a Contested Case.

(e) Any party of record in a Contested Case may request an oral hearing before the Board. A request for an oral hearing shall be filed with the Board and copies shall be served on the administrative law judge and on all other parties in the same manner as for serving other documents in a Contested Case. The Board, in its sole discretion, shall determine whether to grant or deny a request for an oral hearing. If a request for an oral hearing is granted, each party of record shall be allotted 30 minutes to make an oral presentation to the Board.

(f) Upon the expiration of the time provided for the filing of exceptions and briefs or, if exceptions and briefs are filed, upon the 10th day following the time provided for the filing of replies to exceptions and briefs, the Board may render a decision to finally resolve a Contested Case. The Board may change a finding of fact or conclusion of law made by an administrative law judge or may vacate or modify an order issued by an administrative law judge only if the Board determines:

(1) that the administrative law judge did not properly apply or interpret applicable law, agency rules, written policies, or prior administrative decisions;

(2) that a prior administrative decision on which the administrative law judge relied is incorrect or should be changed; or

(3) that a technical error in a finding of fact should be changed.

(g) If the Board makes a change to a finding of fact or conclusion of law or vacates or modifies an order pursuant to subsection (f) of this section, the Board must state in writing the specific reason and the legal basis for the change.

(h) The Board shall issue a written order regarding the Board's decision to finally resolve a Contested Case that is not settled informally. The written order shall include findings of fact and

conclusions of law that are based on the official record of the Contested Case. The written order may adopt by reference the findings of fact and conclusions of law made by an administrative law judge and included in the proposal for decision submitted to the Board.

(i) Motions for rehearing and appeals may be filed and judicial review of final decisions of the Board may be sought pursuant to the Administrative Procedure Act. The party who appeals a final decision in a Contested Case shall be responsible for the cost of the preparation of the original or a certified copy of the record of the agency proceeding that is required to be sent to the reviewing court.

(j) The Board and the administrative law judge who presides over the formal hearing in a Contested Case shall refer to the following guidelines to determine the appropriate penalty for a violation of any of the statutory provisions or rules enforced by the Board:

[Attached Graphic](#)

(k) The penalty for a violation of any of the statutory provisions or rules enforced by the Board may vary from the penalty recommended in subsection (j) of this section if justified by the circumstances of the matter or the disciplinary history of the respondent.

(l) For any violation where revocation is recommended as an appropriate penalty for the violation, refusing to renew the respondent's certificate of registration also shall be an appropriate penalty for the violation.

(m) If the Board or the administrative law judge determines that an administrative penalty is the appropriate sanction for a violation, the guidelines described in §1.177 shall be applied to determine the amount of the administrative penalty.

RULE §3.232 Board Responsibilities

(a) The Board shall investigate Contested Case matters and attempt to resolve Contested Cases informally as provided in Subchapter I of the Rules and Regulations of the Board. However, if a Contested Case is not settled informally pursuant to Subchapter I, it shall be referred to SOAH for a formal hearing to determine whether there has been a violation of any of the statutory provisions or rules enforced by the Board.

(b) A formal hearing shall be conducted in accordance with the Rules of Procedure of SOAH.

(c) After a formal hearing of a Contested Case, the SOAH administrative law judge who conducted the formal hearing shall prepare a proposal for decision and submit it to the Board so that the Board may render a final decision with regard to the Contested Case. The proposal for decision shall include findings of fact and conclusions of law.

(d) Any party of record in a Contested Case who is adversely affected by the proposal for decision may file exceptions and briefs within 20 days after the date of service of the proposal for decision. Replies to exceptions and briefs may be filed within 15 days after the date for the filing of exceptions and briefs. Exceptions, briefs, and replies shall be filed with the Board and copies shall be served on the administrative law judge and on all other parties in the same manner as for serving other documents in a Contested Case.

(e) Any party of record in a Contested Case may request an oral hearing before the Board. A request for an oral hearing shall be filed with the Board and copies shall be served on the administrative law judge and on all other parties in the same manner as for serving other

documents in a Contested Case. The Board, in its sole discretion, shall determine whether to grant or deny a request for an oral hearing. If a request for an oral hearing is granted, each party of record shall be allotted 30 minutes to make an oral presentation to the Board.

(f) Upon the expiration of the time provided for the filing of exceptions and briefs or, if exceptions and briefs are filed, upon the 10th day following the time provided for the filing of replies to exceptions and briefs, the Board may render a decision to finally resolve a Contested Case. The Board may change a finding of fact or conclusion of law made by an administrative law judge or may vacate or modify an order issued by an administrative law judge only if the Board determines:

(1) that the administrative law judge did not properly apply or interpret applicable law, agency rules, written policies, or prior administrative decisions;

(2) that a prior administrative decision on which the administrative law judge relied is incorrect or should be changed; or

(3) that a technical error in a finding of fact should be changed.

(g) If the Board makes a change to a finding of fact or conclusion of law or vacates or modifies an order pursuant to subsection (f) of this section, the Board must state in writing the specific reason and the legal basis for the change.

(h) The Board shall issue a written order regarding the Board's decision to finally resolve a Contested Case that is not settled informally. The written order shall include findings of fact and conclusions of law that are based on the official record of the Contested Case. The written order may adopt by reference the findings of fact and conclusions of law made by an administrative law judge and included in the proposal for decision submitted to the Board.

(i) Motions for rehearing and appeals may be filed and judicial review of final decisions of the Board may be sought pursuant to the Administrative Procedure Act. The party who appeals a final decision in a Contested Case shall be responsible for the cost of the preparation of the original or a certified copy of the record of the agency proceeding that is required to be sent to the reviewing court.

(j) The Board and the administrative law judge who presides over the formal hearing in a Contested Case shall refer to the following guidelines to determine the appropriate penalty for a violation of any of the statutory provisions or rules enforced by the Board:

[Attached Graphic](#)

(k) The penalty for a violation of any of the statutory provisions or rules enforced by the Board may vary from the penalty recommended in subsection (j) of this section if justified by the circumstances of the matter or the disciplinary history of the respondent.

(l) For any violation where revocation is recommended as an appropriate penalty for the violation, refusing to renew the respondent's certificate of registration also shall be an appropriate penalty for the violation.

(m) If the Board or the administrative law judge determines that an administrative penalty is the appropriate sanction for a violation, the guidelines described in §3.177 shall be applied to determine the amount of the administrative penalty.

RULE §5.242 Board Responsibilities

(a) The Board shall investigate Contested Case matters and attempt to resolve Contested Cases informally as provided in Subchapter I of the Rules and Regulations of the Board. However, if a Contested Case is not settled informally pursuant to Subchapter I, it shall be referred to SOAH for a formal hearing to determine whether there has been a violation of any of the statutory provisions or rules enforced by the Board.

(b) A formal hearing shall be conducted in accordance with the Rules of Procedure of SOAH.

(c) After a formal hearing of a Contested Case, the SOAH administrative law judge who conducted the formal hearing shall prepare a proposal for decision and submit it to the Board so that the Board may render a final decision with regard to the Contested Case. The proposal for decision shall include findings of fact and conclusions of law.

(d) Any party of record in a Contested Case who is adversely affected by the proposal for decision may file exceptions and briefs within 20 days after the date of service of the proposal for decision. Replies to exceptions and briefs may be filed within 15 days after the date for the filing of exceptions and briefs. Exceptions, briefs, and replies shall be filed with the Board and copies shall be served on the administrative law judge and on all other parties in the same manner as for serving other documents in a Contested Case.

(e) Any party of record in a Contested Case may request an oral hearing before the Board. A request for an oral hearing shall be filed with the Board and copies shall be served on the administrative law judge and on all other parties in the same manner as for serving other documents in a Contested Case. The Board, in its sole discretion, shall determine whether to grant or deny a request for an oral hearing. If a request for an oral hearing is granted, each party of record shall be allotted 30 minutes to make an oral presentation to the Board.

(f) Upon the expiration of the time provided for the filing of exceptions and briefs or, if exceptions and briefs are filed, upon the 10th day following the time provided for the filing of replies to exceptions and briefs, the Board may render a decision to finally resolve a Contested Case. The Board may change a finding of fact or conclusion of law made by an administrative law judge or may vacate or modify an order issued by an administrative law judge only if the Board determines:

(1) that the administrative law judge did not properly apply or interpret applicable law, agency rules, written policies, or prior administrative decisions;

(2) that a prior administrative decision on which the administrative law judge relied is incorrect or should be changed; or

(3) that a technical error in a finding of fact should be changed.

(g) If the Board makes a change to a finding of fact or conclusion of law or vacates or modifies an order pursuant to subsection (f) of this section, the Board must state in writing the specific reason and the legal basis for the change.

(h) The Board shall issue a written order regarding the Board's decision to finally resolve a Contested Case that is not settled informally. The written order shall include findings of fact and conclusions of law that are based on the official record of the Contested Case. The written order

may adopt by reference the findings of fact and conclusions of law made by an administrative law judge and included in the proposal for decision submitted to the Board.

(i) Motions for rehearing and appeals may be filed and judicial review of final decisions of the Board may be sought pursuant to the Administrative Procedure Act. The party who appeals a final decision in a Contested Case shall be responsible for the cost of the preparation of the original or a certified copy of the record of the agency proceeding that is required to be sent to the reviewing court.

(j) The Board and the administrative law judge who presides over the formal hearing in a Contested Case shall refer to the following guidelines to determine the appropriate penalty for a violation of any of the statutory provisions or rules enforced by the Board:

[Attached Graphic](#)

(k) The penalty for a violation of any of the statutory provisions or rules enforced by the Board may vary from the penalty recommended in subsection (j) of this section if justified by the circumstances of the matter or the disciplinary history of the respondent.

(l) For any violation where revocation is recommended as an appropriate penalty for the violation, refusing to renew the respondent's certificate of registration also shall be an appropriate penalty for the violation.

(m) If the Board or the administrative law judge determines that an administrative penalty is the appropriate sanction for a violation, the guidelines described in §5.187 of this title (relating to Administrative Penalty Schedule) shall be applied to determine the amount of the administrative penalty.

RULE §1.177 Administrative Penalty Schedule

If the Board determines that an administrative penalty is the appropriate sanction for a violation of any of the statutory provisions or rules enforced by the Board, the following guidelines shall be applied to guide the Board's assessment of an appropriate administrative penalty:

(1) The Board shall consider the following factors to determine whether the violation is minor, moderate, or major:

(A) Seriousness of misconduct and efforts to correct the ground for sanction:

(i) Minor--the respondent has demonstrated that he/she was unaware that his/her conduct was prohibited and unaware that the conduct was reasonably likely to cause the harm that resulted from the conduct or the respondent has demonstrated that there were significant extenuating circumstances or intervening causes for the violation; and the respondent has demonstrated that he/she provided a satisfactory remedy that alleviated or eliminated any harm or threat to the health or safety of the public.

(ii) Moderate--the violation shows that the respondent knowingly disregarded a standard or practice normally followed by a reasonably prudent person under the same or similar circumstances. A violation of a Board order shall constitute, at a minimum, a moderate violation.

(iii) Major--the conduct demonstrates gross negligence or recklessness or resulted in a threat to the health or safety of the public and the respondent, after being notified of the alleged violation intentionally refused or failed to take prompt and remedial action.

(B) Economic harm:

(i) Minor--there was no apparent economic damage to property or monetary loss to the project owner or other involved persons and entities.

(ii) Moderate--economic damage to property or monetary harm to other persons or entities did not exceed \$1,000, or damage exceeding \$1,000 was reasonably unforeseeable.

(iii) Major--economic damage to property or economic injury to other persons or entities exceeded \$1,000.

(C) Sanction history:

(i) Minor--the respondent has not previously received a written warning, advisory notice or been subject to other enforcement proceedings from the Board.

(ii) Moderate--the respondent was previously subject to an order of the Board or other enforcement proceedings which resulted in a finding of a violation of the laws or rules over which the TBAE has jurisdiction.

(iii) Major--the respondent has received at least two prior written notices or has been subject to two disciplinary actions for violation of the rules and laws over which the TBAE has jurisdiction.

(2) After determining whether the violation is minor, moderate, or major, the Board shall impose an administrative penalty as follows:

(A) Minor violations--if the violation is minor in every category described in paragraph (1) of this section, an administrative penalty of not more than \$500 shall be imposed.

(B) Moderate violations--if the violation is moderate in any category described in paragraph (1) of this section, an administrative penalty of not more than \$2,000 shall be imposed.

(C) Major violations--if the violation is major in any category described in paragraph (1) of this section or if the Board determines that the facts of the case indicate a higher penalty is necessary in order to deter similar misconduct in the future, an administrative penalty of not more than \$5,000 shall be imposed.

(D) Because of the threat to human health, safety and well-being which necessarily arises out of a Non-registrant preparing and issuing architectural plans and specifications the Board possesses a compelling interest in ensuring that architectural plans and specifications are prepared and issued only by a registered architect or by a person who is working under the active and documented Supervision and Control of a registered Architect when required by law. If the evidence establishes that Architectural plans and specifications for a project that is not exempt from the Architects' Practice Act were prepared by a person who is not registered to engage in the Practice of Architecture and was not working under the active and documented Supervision and Control of an Architect the violation shall be presumed to be a major violation and each sheet of architectural plans or separate section of the specifications shall be considered a separate violation for purposes of calculating and imposing administrative penalties.

(E) Because of the threat to human health, safety and welfare which necessarily arises from Non-registrants engaging in the Practice of Architecture the Board has a compelling interest in ensuring that only those persons who are registered to engage in the Practice of Architecture or whose work is conducted under the active and documented Supervision and Control of a registered architect engage in the Practice of Architecture. If the evidence establishes that an

Architect has sealed architectural plans and separately numbered section of the specifications without having exercised active and documented Supervision and Control of the Non-registrants' activities the Board shall presume such conduct by the sealing architect to be a major violation and each sheet of architectural plans or separate section of the specifications shall be considered a separate violation for purposes of calculating and imposing administrative penalties.

(F) The agency is responsible for protecting the public's health, safety and welfare by interpreting and enforcing the Architects' Practice Act. In fulfilling this statutory duty the Board depends upon, and expects, that Registrants and Applicants will provide complete, truthful and accurate information to the Board upon request. This prompt and accurate provision of information is essential to protecting the public's health, safety and welfare.

(G) An Architect, Candidate, or Applicant who fails, without good cause, to provide information to the Board under provision of §1.171 of this subchapter (relating to Responding to Request for Information) is presumed to be interfering with and preventing the Board from fulfilling its responsibilities. For these reasons a violation of §1.171 of this subchapter shall be considered a moderate violation if a complete response is not received within 30 days after receipt of the Board's written inquiry. Any further delay constitutes a major violation. Each 15 day delay thereafter shall be considered a separate violation of these rules.

(3) In order to determine the appropriate amount in a penalty range described in paragraph (2) of this section, the Board shall consider the factors described in paragraph (1) of this section.

(4) If the facts of a case are unique or unusual, the Board may suspend the guidelines described in this section.

RULE §3.177 Administrative Penalty Schedule

If the Board determines that an administrative penalty is the appropriate sanction for a violation of any of the statutory provisions or rules enforced by the Board, the following guidelines shall be applied to guide the Board's assessment of an appropriate administrative penalty:

(1) The Board shall consider the following factors to determine whether the violation is minor, moderate, or major:

(A) Seriousness of misconduct and efforts to correct the ground for sanction:

(i) Minor--the respondent had demonstrated that he/she was unable that his/her conduct was prohibited and unaware that the conduct was reasonably likely to cause the harm that resulted from the conduct or the respondent has demonstrated that there were significant extenuating circumstances or intervening causes for the violation; and the respondent has demonstrated that he/she provided a satisfactory remedy that alleviated or eliminated any harm or threat to the health or safety of the public.

(ii) Moderate--the violation shows that the respondent knowingly disregarded a standard or practice normally followed by a reasonably prudent person under the same or similar circumstances. A violation of a Board order shall constitute, at a minimum, a moderate violation.

(iii) Major--the conduct demonstrates gross negligence or recklessness or resulted in a threat to the health or safety of the public and the respondent, after being notified of the alleged violation intentionally refused or failed to take prompt and remedial action.

(B) Economic harm:

(i) Minor--there was no apparent economic damage to property or monetary loss to the project owner or other involved persons and entities.

(ii) Moderate--economic damage to property or monetary harm to other persons or entities did not exceed \$1,000, or damage exceeding \$1,000 was reasonably unforeseeable.

(iii) Major--economic damage to property or economic injury to other persons or entities exceeded \$1,000.

(C) Sanction history:

(i) Minor--the respondent has not previously received a written warning, advisory notice or been subject to other enforcement proceedings from the Board.

(ii) Moderate--the respondent was previously subject to an order of the Board or other enforcement proceedings which resulted in a finding of a violation of the laws or rules over which the TBAE has jurisdiction.

(iii) Major--the respondent has received at least two prior written notices or has been subject to two disciplinary actions for violation of the rules and laws over which the TBAE has jurisdiction.

(2) After determining whether the violation is minor, moderate, or major, the Board shall impose an administrative penalty as follows:

(A) Minor violations--if the violation is minor in every category described in paragraph (1) of this section, an administrative penalty of not more than \$500 shall be imposed.

(B) Moderate violations--if the violation is moderate in any category described in paragraph (1) of this section, an administrative penalty of not more than \$2,000 shall be imposed.

(C) Major violations--if the violation is major in any category described in paragraph (1) of this section or if the Board determines that the facts of the case indicate a higher penalty is necessary in order to deter similar misconduct in the future, an administrative penalty of not more than \$5,000 shall be imposed.

(D) Because of the threat to human health, safety and well-being which necessarily arises out of a Non-registrant preparing and issuing landscape architectural plans and specifications the Board possesses a compelling interest in ensuring that landscape architectural plans and specifications are prepared and issued only by registered landscape architect or by a person who is working under the active and documented Supervision and Control of a registered Landscape Architect when required by law. If the evidence establishes that Landscape Architectural plans and specifications for a project that is not exempt from the Landscape Architects' Practice Act were prepared by a person who is not registered to engage in the Practice of Landscape Architecture and was not working under the active and documented Supervision and Control of a Landscape Architect the violation shall be presumed to be a major violation and each sheet of architectural plans or separate section of the specifications shall be considered a separate section of the specifications shall be considered a separate violation for purposes of calculating and imposing administrative penalties.

(E) Because of the threat to human health, safety and welfare which necessarily arises from Non-registrants engaging in the Practice of Landscape Architecture the Board has a compelling interest in ensuring that only those persons who are registered to engage in the Practice of

Landscape Architecture or whose work is conducted under the active and documented Supervision and Control of a registered Landscape Architect engage in the Practice of Landscape Architecture. If the evidence establishes that a Landscape Architect has sealed landscape architectural plans and separately numbered section of the specifications without having exercised active and documented Supervision and Control of the Non-registrants' activities the Board shall presume such conduct by the sealing landscape architect to be a major violation and each sheet of landscape architectural plans or separate section of the specifications shall be considered a separate violation for purposes of calculating and imposing administrative penalties.

(F) The agency is responsible for protecting the public's health, safety and welfare by interpreting and enforcing the Landscape Architects' Practice Act. In fulfilling this statutory duty the Board depends upon, and expects, that Registrants and Applicants will provide complete, truthful and accurate information to the Board upon request. This prompt and accurate provision of information is essential to protecting the public's health, safety and welfare.

(G) A Landscape Architect, Candidate, or Applicant who fails, without good cause, to provide information to the Board under the provision of §3.171 of this subchapter (relating to Responding to Request for Information) is presumed to be interfering with and preventing the Board from fulfilling its responsibilities. For these reasons a violation of §3.171 of this subchapter shall be considered a moderate violation if a complete response is not received within 30 days after receipt of the Board's written inquiry. Any further delay constitutes a major violation. Each 15 day delay thereafter shall be considered a separate violation of these rules.

(3) In order to determine the appropriate amount in a penalty range described in paragraph (2) of this section, the Board shall consider the factors described in paragraph (1) of this section.

(4) If the facts of a case are unique or unusual, the Board may suspend the guidelines described in this section.

Rule §5.187 Administrative Penalty Schedule

If the Board determines that an administrative penalty is the appropriate sanction for a violation of any of the statutory provisions or rules enforced by the Board, the following guidelines shall be applied to guide the Board's assessment of an appropriate administrative penalty:

(1) The Board shall consider the following factors to determine whether the violation is minor, moderate, or major:

(A) Seriousness of misconduct and efforts to correct the ground for sanction:

(i) Minor--the respondent has demonstrated that he/she was unaware that his/her conduct was prohibited and unaware that the conduct was reasonably likely to cause the harm that resulted from the conduct or the respondent has demonstrated that there were significant extenuating circumstances or intervening causes for the violation; and the respondent has demonstrated that he/she provided a satisfactory remedy that alleviated or eliminated any harm or threat to the health or safety of the public.

(ii) Moderate--the violation shows that the respondent knowingly disregarded a standard or practice normally followed by a reasonably prudent person under the same or similar circumstances. A violation of a Board order shall constitute, at a minimum, a moderate violation.

(iii) Major--the conduct demonstrates gross negligence or recklessness or resulted in a threat to the health or safety of the public and the respondent, after being notified of the alleged violation intentionally refused or failed to take prompt and remedial action.

(B) Economic harm:

(i) Minor--there was no apparent economic damage to property or monetary loss to the project owner or other involved persons and entities.

(ii) Moderate--economic damage to property or monetary harm to other persons or entities did not exceed \$1,000, or damage exceeding \$1,000 was reasonably unforeseeable.

(iii) Major--economic damage to property or economic injury to other persons or entities exceeded \$1,000.

(C) Sanction history:

(i) Minor--the respondent has not previously received a written warning, advisory notice or been subject to other enforcement proceedings from the Board.

(ii) Moderate--the respondent was previously subject to an order of the Board or other enforcement proceedings which resulted in a finding of a violation of the laws or rules over which the TBAE has jurisdiction.

(iii) Major--the respondent has received at least two prior written notices or has been subject to two disciplinary actions for violation of the rules and laws over which the TBAE has jurisdiction.

(2) After determining whether the violation is minor, moderate, or major, the Board shall impose an administrative penalty as follows:

(A) Minor violations--if the violation is minor in every category described in paragraph (1) of this section, an administrative penalty of not more than \$500 shall be imposed.

(B) Moderate violations--if the violation is moderate in any category described in paragraph (1) of this section, an administrative penalty of not more than \$2,000 shall be imposed.

(C) Major violations--if the violation is major in any category described in paragraph (1) of this section or if the Board determines that the facts of the case indicate a higher penalty is necessary in order to deter similar misconduct in the future, an administrative penalty of not more than \$5,000 shall be imposed.

(D) Because of the threat to human health, safety and well-being which necessarily arises from a Non-registrant representing himself or herself to be registered as a Registered Interior Designer the Board possesses a compelling interest in ensuring that only those persons who are permitted by statute and rule to use the title "registered interior designer" do so. If the evidence establishes that a person not registered as a Registered Interior Designer has represented himself or herself as a registrant, the violation shall be classified as a major violation and each sheet of Interior Design plans or separate section of the specifications shall be considered a separate violation for purposes of calculating and imposing administrative penalties.

(E) The agency is responsible for protecting the public's health, safety and welfare by interpreting and enforcing the Interior Designers' Registration Law. In fulfilling this statutory duty the Board depends upon, and expects, that Registrants, Candidates and Applicants will

provide complete, truthful and accurate information to the Board upon request. This prompt and accurate provision of information is essential to protecting the public's health, safety and welfare.

(F) A Registered Interior Designer, a Candidate, or an Applicant who fails, without good cause, to provide information to the Board under §5.181 of this subchapter (relating to Responding to Request for Information) is presumed to be interfering with and preventing the Board from fulfilling its responsibilities. For these reasons a violation of §5.181 of this subchapter shall be considered a moderate violation if a complete response is not received within 30 days after the violation. Any further delay constitutes a major violation. Each 15 day delay thereafter shall be considered a separate violation of these rules.

(3) In order to determine the appropriate amount in a penalty range described in paragraph (2) of this section, the Board shall consider the factors described in paragraph (1) of this section.

(4) If the facts of a case are unique or unusual, the Board may suspend the guidelines described in this section.

Summary of Draft Amendments

Professional Services Procurement Act

Current Law --Section 1051. 203, Texas Occupations Code, generally prohibits the Board from regulating commercial speech, except to restrict false, misleading or deceptive practices. The law prohibits the Board from adopting rules which restrict competitive bidding. However, a portion of the law requires the Board to adopt rules to prohibit its registrants from submitting a competitive bid to a governmental entity and from soliciting a competitive bid on behalf of a governmental entity, if the Professional Services Procurement Act bars the governmental entity from awarding a contract on the basis of competitive bidding.

The Professional Services Procurement Act lists both architecture and landscape architecture as “professional services” subject to the Act. Governmental entities may not select a provider of either professional service on the basis of competitive bids. However, the Act implements that prohibition differently for architectural services than it does for landscape architectural services.

The Act specifies a two-step process for the procurement of architectural services (along with engineering and land surveying services). A governmental entity must first select the most highly qualified provider of architectural services on the basis of demonstrated competence and qualifications and then attempt to negotiate a fair and reasonable price with the selected provider. For the selection of a provider of landscape architectural services (along with all other professional services), the Act requires a governmental entity to make the selection and award on the basis of demonstrated competence and qualifications to perform the services for a fair and reasonable price. There is no specified sequence of selection followed by negotiation for awarding a contract to a landscape architect.

The Board has adopted rules restricting architects and landscape architects from submitting a competitive bid to, or soliciting a competitive on behalf of, a governmental entity in accordance with the Act. The rule bans architects and landscape architects from providing information relating to fees for a professional service only after selection on the basis of competence and qualifications.

Proposed Changes --The draft rules defines the term “competitive bid” for purposes of the rule. As defined, a competitive bid includes information which discloses a fee for a professional service for architecture or landscape architecture. The terms include information from which the fee may be extrapolated or indirectly determined.

The draft amendments more closely track and implement the restrictions in the law and make the rules more closely align with the rules of the Texas Board of Professional Engineers and the Texas Board of Professional Land Surveying. The amendments also clarify the current restriction on the disclosure of any information “related to the monetary cost of a professional service” which broad enough and vague enough to be construed in an inconsistent or overbroad manner.

PSPA Draft Rule Amendments

RULE §1.147. Professional Services Procurement Act

1 An Architect shall neither submit a competitive bid to nor solicit a competitive bid on behalf of
2 any governmental entity that is prohibited by the Professional Services Procurement Act,
3 Subchapter A, Chapter 2254, Government Code, from making a selection or awarding a contract
4 on the basis of competitive bids. For purposes of this Section, the term “competitive bid” means
5 information which specifies the fee charged by an Architect for a professional service, including
6 information from which such fee may be extrapolated or indirectly determined. An Architect
7 may disclose to a governmental entity [~~submit information related to~~] the fee for [~~monetary cost~~
8 ~~of~~] a professional service, including information found in a fee schedule, only after the
9 governmental entity has selected the Architect on the basis of demonstrated competence and
10 qualifications pursuant to the Professional Services Procurement Act.

RULE §3.147. Professional Services Procurement Act

11 A Landscape Architect shall neither submit a competitive bid to nor solicit a competitive bid on
12 behalf of any governmental entity that is prohibited by the Professional Services Procurement
13 Act, Subchapter A, Chapter 2254, Government Code, from making a selection or awarding a
14 contract on the basis of competitive bids. For purposes of this Section, the term “competitive
15 bid” means information which specifies the fee charged by a Landscape Architect for a
16 professional service, including information from which such a fee may be extrapolated or
17 indirectly determined. A Landscape Architect may disclose to a governmental entity [~~submit~~
18 ~~information related to~~] the fee for ~~monetary cost of~~ a professional service, including information
19 found in a fee schedule, in order to negotiate a fair and reasonable price only after the
20 governmental entity has selected the Landscape Architect on the basis of demonstrated
21 competence and qualifications pursuant to the Professional Services Procurement Act.

PSPA Reference Documents

§ 1051.203, Texas Occupations Code

§ 1051.203. Rules Restricting Advertising or Competitive Bidding

(a) The board may not adopt rules restricting advertising or competitive bidding by a certificate holder except to prohibit false, misleading, or deceptive practices.

(b) In its rules to prohibit false, misleading, or deceptive practices, the board may not include a rule that:

(1) restricts the use of any advertising medium;

(2) restricts the use of a certificate holder's personal appearance or voice in an advertisement;

(3) relates to the size or duration of an advertisement by the certificate holder; or

(4) restricts the certificate holder's advertisement under a trade name.

(c) The board shall adopt rules to prevent a person regulated by the board from submitting a competitive bid to, or soliciting a competitive bid on behalf of, a governmental entity that is prohibited by Subchapter A, Chapter 2254, Government Code, from making a selection or awarding a contract on the basis of competitive bids.

Professional Services Procurement Act

§ 2254.001. Short Title

This subchapter may be cited as the Professional Services Procurement Act.

§ 2254.002. Definitions

In this subchapter:

(1) “Governmental entity” means:

- (A) a state agency or department;
- (B) a district, authority, county, municipality, or other political subdivision of the state;
- (C) a local government corporation or another entity created by or acting on behalf of a political subdivision in the planning and design of a construction project; or
- (D) a publicly owned utility.

(2) “Professional services” means services:

(A) within the scope of the practice, as defined by state law, of:

- (i) accounting;
- (ii) architecture;
- (iii) landscape architecture;
- (iv) land surveying;
- (v) medicine;
- (vi) optometry;
- (vii) professional engineering;
- (viii) real estate appraising; or
- (ix) professional nursing; or

(B) provided in connection with the professional employment or practice of a person who is licensed or registered as:

- (i) a certified public accountant;
- (ii) an architect;
- (iii) a landscape architect;
- (iv) a land surveyor;
- (v) a physician, including a surgeon;
- (vi) an optometrist;
- (vii) a professional engineer;
- (viii) a state certified or state licensed real estate appraiser; or
- (ix) a registered nurse.

§ 2254.003. Selection of Provider; Fees

(a) A governmental entity may not select a provider of professional services or a group or association of providers or award a contract for the services on the basis of competitive bids submitted for the contract or for the services, but shall make the selection and award:

- (1) on the basis of demonstrated competence and qualifications to perform the services; and
- (2) for a fair and reasonable price.

(b) The professional fees under the contract may not exceed any maximum provided by law.

§ 2254.004. Contract for Professional Services of Architect, Engineer, or Surveyor

(a) In procuring architectural, engineering, or land surveying services, a governmental entity shall:

- (1) first select the most highly qualified provider of those services on the basis of demonstrated competence and qualifications; and
- (2) then attempt to negotiate with that provider a contract at a fair and reasonable price.

(b) If a satisfactory contract cannot be negotiated with the most highly qualified provider of architectural, engineering, or land surveying services, the entity shall:

- (1) formally end negotiations with that provider;
- (2) select the next most highly qualified provider; and
- (3) attempt to negotiate a contract with that provider at a fair and reasonable price.

(c) The entity shall continue the process described in Subsection (b) to select and negotiate with providers until a contract is entered into.

§ 2254.005. Void Contract

A contract entered into or an arrangement made in violation of this subchapter is void as against public policy.

§ 2254.007. Declaratory or Injunctive Relief

(a) This subchapter may be enforced through an action for declaratory or injunctive relief filed not later than the 10th day after the date a contract is awarded.

(b) This section does not apply to the enforcement of a contract entered into by a state agency as that term is defined by [Section 2151.002](#). In this subsection, “state agency” includes the Texas Building and Procurement Commission.

Reference Documents
PSPA Rules by Similarly Situated Agencies

Texas Board of Professional Engineers

§ 137.53. Engineer Standards of Compliance with Professional Services Procurement Act

(a) A licensed engineer shall not submit or request, orally or in writing, a competitive bid to perform professional engineering services for a governmental entity unless specifically authorized by state law and shall report to the board any requests from governmental entities and/or their representatives that request a bid or cost and/or pricing information or any other information from which pricing or cost can be derived prior to selection based on demonstrated competence and qualifications to perform the services.

(b) For the purposes of this section, competitive bidding to perform engineering services includes, but is not limited to, the submission of any monetary cost information in the initial step of selecting qualified engineers. Cost information or other information from which cost can be derived must not be submitted until the second step of negotiating a contract at a fair and reasonable cost.

(c) This section does not prohibit competitive bidding in the private sector.

Texas Board of Professional Land Surveying

§ 663.8. Adherence to Statutes and Codes

Strict adherence to practice requirements of related sections of the statutes, the state code, and all local codes and ordinances shall be maintained in all services rendered. The registrant:

(1) Shall abide by, and conform to, the registration and licensing laws of the state;

(2) Shall abide by, and conform to, the provisions of the state code and any local codes and ordinances not consistent with this Act. Any surveyor subdividing land into tracts subject to statutory requirements providing for an approval process by a governing body for such subdivision shall notify the individual whose intent it is to create the subdivision of the existence of the statutory requirements that pertain to and affect the development of the proposed subdivision prior to commencing the survey. It is recommended that this notification be in writing and a copy be maintained within the surveyor's permanent records;

(3) Shall not violate nor aid and abet another in violating a rule of conduct nor engage in any conduct that may adversely affect his/her fitness to practice;

(4) Shall not sign nor impress his/her seal or stamp upon documents not prepared by him/her or under his/her control or knowingly permit his/her seal or stamp to be used by any other person;
and

(5) Shall not submit or request, orally or in writing, a competitive bid to perform professional surveying services for a governmental entity or political subdivision of the State of Texas unless specifically authorized by state law.

(A) For purposes of this section, the Board considers competitive bidding to perform professional surveying services to include the submission of any monetary cost information in the initial step of selecting qualified professional land surveyors. Cost information or other information from which cost can be derived must not be submitted until the second step of negotiating a contract.

(B) This section does not prohibit competitive bidding in the private sector.

Summary of Draft Amendments Regarding Intent in Dishonest Practices Rules

Current Rules--The Board's rules prohibiting dishonest conduct specifically include an element of intent. In order to prove a violation of a dishonest practices rule, the agency must prove an act or assertion was made, or withheld, with the intent to defraud, deceive or create a misleading impression. The rules regarding dishonest practices of architecture also include a prohibition upon knowingly making a false statement when testifying as an expert witness.

Although these offenses carry an element of intent or knowledge, the rules do not define the level of, or nature of, the respondent's culpable mental state when acting to deceive. This ambiguity does not provide clear notice to agency registrants regarding the nature of the conduct for which the Board may impose a sanction. It also does not give the agency or an administrative law judge adequate guidance on the elements which must be proved in order to establish a violation.

The rules also prohibit registrants from giving goods or services to a governmental entity in an effort to be awarded publicly funded work. Registrants have contacted the agency about the extent to which this rule applies regarding minor services or items of minimal value.

Draft Amendments--The draft amendments create a definition of the term "intent" for purposes of the dishonest practices rules. As defined, "intent" may be established by the nature of the conduct or the reasonable result of the conduct. The definitions create an objective standard of intent based upon what may reasonably be inferred from the conduct in question. The intent of a registrant to defraud, deceive, or create a misleading impression may be established if a reasonable person would reasonably conclude that the registrant wanted deception or a misleading impression to result from the conduct. The draft amendments also state intent may be established by circumstantial evidence. The evidence regarding the circumstances of respondent's actions, assertions, and lack of actions or assertions may establish respondent's conscious intent to bring about the fraud, deception or misleading impression.

The terms "knowing" and "knowledge" are likewise defined by reference to an objective standard based upon reasonableness. As amended, an architect would act knowingly or with knowledge if a reasonably prudent architect would be aware of the nature of the action or the likely result of the action. The definitions for "intent" and "knowing" or "knowledge" are based upon statutory guidance from the Texas Penal Code regarding culpable mental states. A copy of relevant provision is included for reference.

The draft amendments also modify the rules to prohibit registrants from giving a thing or service of *significant* value to a governmental entity to be awarded work. The meaning of the term "significant value" is described as a value which would create or appear to create an obligation on the governmental entity's part to award work to the registrant who gave the thing or service to the governmental entity. The definition for the term is substantively identical to the definition of "benefit of any substantial nature" used the Board's Rules 1.145, 3.145 and 5.155 regarding conflicts of interest.

RULE §1.144 Dishonest Practice

1 (a) An Architect may not directly or indirectly perform an act, omit an act or allow an omission,
2 make an assertion, or otherwise engage in a practice with the intent to:

- 3 (1) defraud;
- 4 (2) deceive; or
- 5 (3) create a misleading impression.

6 (b) An Architect may not advertise in a manner which is false, misleading, or deceptive.

7 (c) An Architect may not directly or indirectly solicit, offer, give, or receive anything or any
8 service of significant value as an inducement or reward to secure any specific publicly funded
9 architectural work. An Architect may not give architectural plans, design services, pre-bond
10 referendum services, or any other goods or services of significant value to a governmental entity
11 in response to a request for qualifications, a request for proposals, or otherwise during the
12 process to select an Architect to render publicly funded architectural work. The term “significant
13 value” means any act, article, money, or other material consideration which is of such value or
14 proportion that its offer or acceptance would affect the governmental entity’s selection of an
15 Architect or would create the appearance of an obligation or bias on the part of the governmental
16 entity to select the Architect to perform the architectural work.

17 (d) An Architect serving as an expert witness is subject to discipline for committing a dishonest
18 practice upon a finding by a court of law that the Architect:

- 19 (1) rendered testimony the Architect has actual knowledge is false; or
- 20 (2) agreed to receive payment contingent upon giving testimony that expresses a particular
21 opinion.

22 (e) For purposes of this Section, an Architect’s conduct is intentional, or with intent, if the nature
23 of the conduct or a reasonable result of the conduct demonstrates a conscious objective or desire
24 to engage in the conduct or cause the result. An Architect’s conduct is knowing or with
25 knowledge, with respect to the nature of the conduct or to circumstances surrounding the conduct
26 when a reasonably prudent Architect in the same or similar circumstances would be aware of the
27 nature of the conduct or that the circumstances exist. An Architect acts knowingly, or with
28 knowledge, with respect to a result of the Architect’s conduct when a reasonably prudent
29 Architect would be aware of the conduct and the conduct is reasonably certain to cause the
30 result. An Architect’s intent or knowledge may be established by circumstantial evidence.

RULE §3.144

Dishonest Practice

1 (a) A Landscape Architect may not directly or indirectly perform an act, omit an act or allow an
2 omission, make an assertion, or otherwise engage in a practice with the intent to:

- 3 (1) defraud;
- 4 (2) deceive; or
- 5 (3) create a misleading impression.

6 (b) A Landscape Architect may not advertise in a manner which is false, misleading, or
7 deceptive.

8 (c) A Landscape Architect may not directly or indirectly solicit, offer, give, or receive anything
9 or any service of significant value as an inducement or reward to secure any specific publicly
10 funded landscape architectural work. A Landscape Architect may not give landscape
11 architectural plans, design services, pre-bond referendum services, or any other goods or services
12 of significant value to a governmental entity in response to a request for qualifications, a request
13 for proposals, or otherwise during the process to select a Landscape Architect to render publicly
14 funded landscape architectural work. The term “significant value” is defined to mean any act,
15 article, money, or other material consideration which is of such value or proportion that its offer
16 or acceptance would affect the governmental entity’s selection of a Landscape Architect or
17 would create the appearance of an obligation or bias on the part of the governmental entity to
18 select the Landscape Architect to perform the landscape architectural work.

19 (d) For purposes of this Section, a Landscape Architect’s conduct is intentional, or with intent, if
20 the nature of the conduct or a reasonable result of the conduct demonstrates a conscious
21 objective or desire to engage in the conduct or cause the result. A Landscape Architect’s intent or
22 knowledge may be established by circumstantial evidence.

RULE §5.154

Dishonest Practice

- 1 (a) A Registered Interior Designer may not directly or indirectly perform an act, omit an act or
2 allow an omission, make an assertion, or otherwise engage in a practice with the intent to:
- 3 (1) defraud;
 - 4 (2) deceive; or
 - 5 (3) create a misleading impression.
- 6 (b) A Registered Interior Designer may not advertise in a manner which is false, misleading, or
7 deceptive.
- 8 (c) A Registered Interior Designer may not directly or indirectly solicit, offer, give, or receive
9 anything or any service of significant value as an inducement or reward to secure any specific
10 publicly funded Interior Design work. A Registered Interior Designer may not give Interior
11 Design plans, design services, pre-bond referendum services, or any other goods or services of
12 significant value to a governmental entity in response to a request for qualifications, a request for
13 proposals, or otherwise during the process to select a Registered Interior Designer to render
14 publicly funded Interior Design work. The term “significant value” is defined to mean any act,
15 article, money, or other material consideration which is of such value or proportion that its offer
16 or acceptance would affect the governmental entity’s selection of a Registered Interior Designer
17 or would create the appearance of an obligation or bias on the part of the governmental entity to
18 select the Registered Interior Designer to perform the Interior Design work.
- 19 (d) For purposes of this Section, a Registered Interior Designer’s conduct is intentional, or with
20 intent, if the nature of the conduct or a reasonable result of the conduct demonstrates a conscious
21 objective or desire to engage in the conduct or cause the result. A Registered Interior Designer’s
22 intent may be established by circumstantial evidence.

Reference Documents
Draft Amendments Regarding Intent/Knowledge

PENAL CODE

TITLE 2. GENERAL PRINCIPLES OF CRIMINAL RESPONSIBILITY

CHAPTER 6. CULPABILITY GENERALLY

Section. 6.01. REQUIREMENT OF VOLUNTARY ACT OR OMISSION.

- (a) A person commits an offense only if he voluntarily engages in conduct, including an act, an omission, or possession.
- (b) Possession is a voluntary act if the possessor knowingly obtains or receives the thing possessed or is aware of his control of the thing for a sufficient time to permit him to terminate his control.
- (c) A person who omits to perform an act does not commit an offense unless a law as defined by Section 1.07 provides that the omission is an offense or otherwise provides that he has a duty to perform the act.

Section. 6.02. REQUIREMENT OF CULPABILITY.

- (a) Except as provided in Subsection (b), a person does not commit an offense unless he intentionally, knowingly, recklessly, or with criminal negligence engages in conduct as the definition of the offense requires.
- (b) If the definition of an offense does not prescribe a culpable mental state, a culpable mental state is nevertheless required unless the definition plainly dispenses with any mental element.
- (c) If the definition of an offense does not prescribe a culpable mental state, but one is nevertheless required under Subsection (b), intent, knowledge, or recklessness suffices to establish criminal responsibility.
- (d) Culpable mental states are classified according to relative degrees, from highest to lowest, as follows:
 - (1) intentional;
 - (2) knowing;
 - (3) reckless;
 - (4) criminal negligence.
- (e) Proof of a higher degree of culpability than that charged constitutes proof of the culpability charged.
- (f) An offense defined by municipal ordinance or by order of a county commissioners court may not dispense with the requirement of a culpable mental state if the offense is punishable by a fine exceeding the amount authorized by Section 12.23.

Section. 6.03. DEFINITIONS OF CULPABLE MENTAL STATES.

- (a) A person acts intentionally, or with intent, with respect to the nature of his conduct or to a result of his conduct when it is his conscious objective or desire to engage in the conduct or cause the result.

(b) A person acts knowingly, or with knowledge, with respect to the nature of his conduct or to circumstances surrounding his conduct when he is aware of the nature of his conduct or that the circumstances exist. A person acts knowingly, or with knowledge, with respect to a result of his conduct when he is aware that his conduct is reasonably certain to cause the result.

(c) A person acts recklessly, or is reckless, with respect to circumstances surrounding his conduct or the result of his conduct when he is aware of but consciously disregards a substantial and unjustifiable risk that the circumstances exist or the result will occur. The risk must be of such a nature and degree that its disregard constitutes a gross deviation from the standard of care that an ordinary person would exercise under all the circumstances as viewed from the actor's standpoint.

(d) A person acts with criminal negligence, or is criminally negligent, with respect to circumstances surrounding his conduct or the result of his conduct when he ought to be aware of a substantial and unjustifiable risk that the circumstances exist or the result will occur. The risk must be of such a nature and degree that the failure to perceive it constitutes a gross deviation from the standard of care that an ordinary person would exercise under all the circumstances as viewed from the actor's standpoint.

Section. 6.04. CAUSATION: CONDUCT AND RESULTS.

(a) A person is criminally responsible if the result would not have occurred but for his conduct, operating either alone or concurrently with another cause, unless the concurrent cause was clearly sufficient to produce the result and the conduct of the actor clearly insufficient.

(b) A person is nevertheless criminally responsible for causing a result if the only difference between what actually occurred and what he desired, contemplated, or risked is that:

- (1) a different offense was committed; or
- (2) a different person or property was injured, harmed, or otherwise affected.

Issue Summary
Architect Registration Examination Financial Assistance Fund (AREFAF)

Issue--Board delegated to the Rules Committee consideration of the current and projected fund balance and possible reimplementing of the surcharge to continue providing financial assistance to ARE candidates.

Background--The scholarship fund was created in 1999 by the 76th Texas Legislature. From 2000 to 2003, a surcharge of \$10 was collected from Architect registrants (all statuses) on top of their renewal fees to seed the fund. The fund was created to promote professional needs of the state, increase the number of architects, encourage economic development, and support architectural applicants.

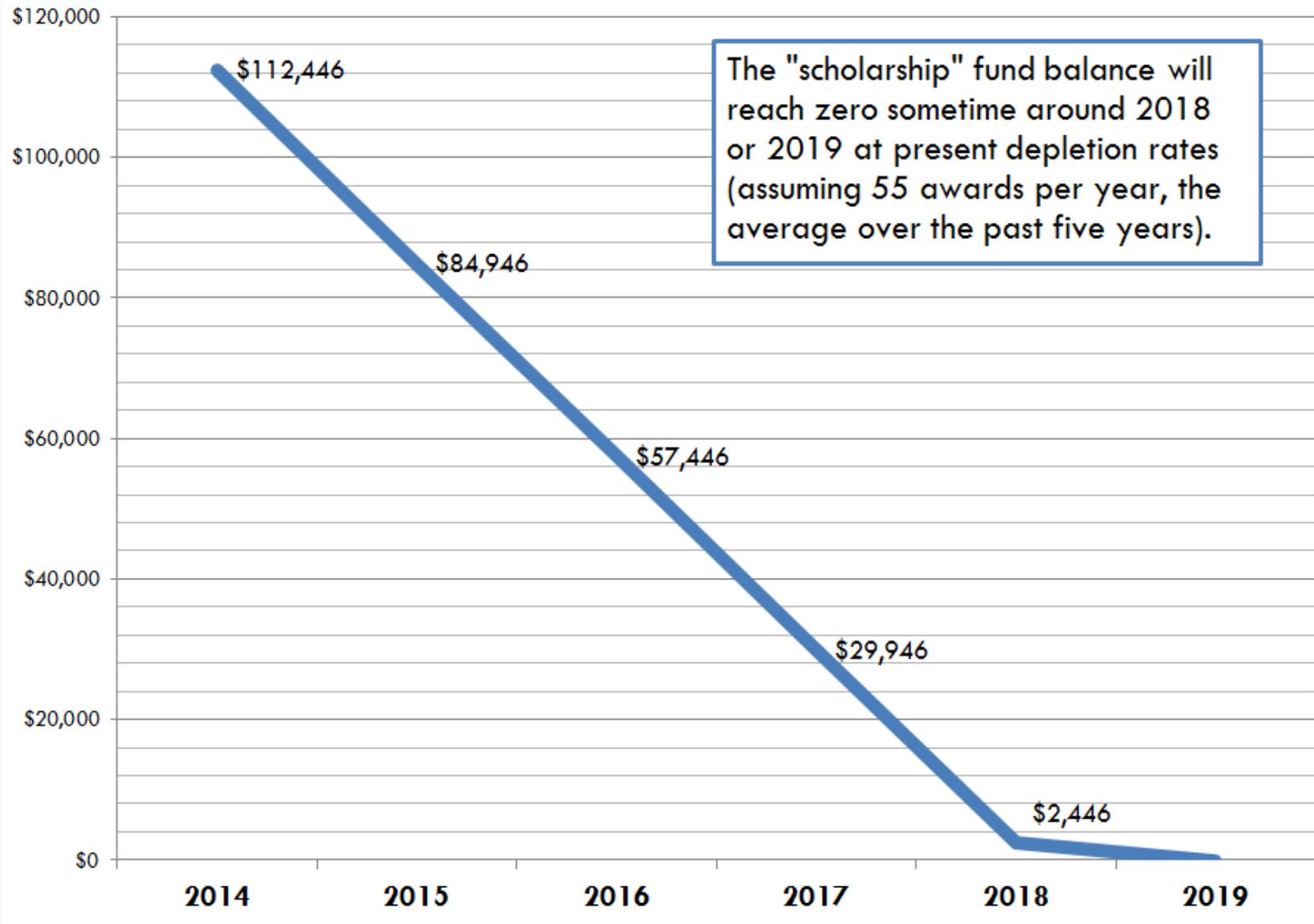
At its present rate and without Board action, the fund is projected to be completely depleted sometime around 2018 or 2019. The chart named “AREFAF Depletion Projection” shows anticipated balance projections over the next 5 years. Changes in economic conditions, interest rates, demand, or eligibility requirements could affect the rate of depletion significantly.

Options--A variety of options are available to the Board, ranging from letting the fund deplete naturally in a few years, to maintaining present levels (or even growing) the Fund via a reinstated surcharge on Architects.

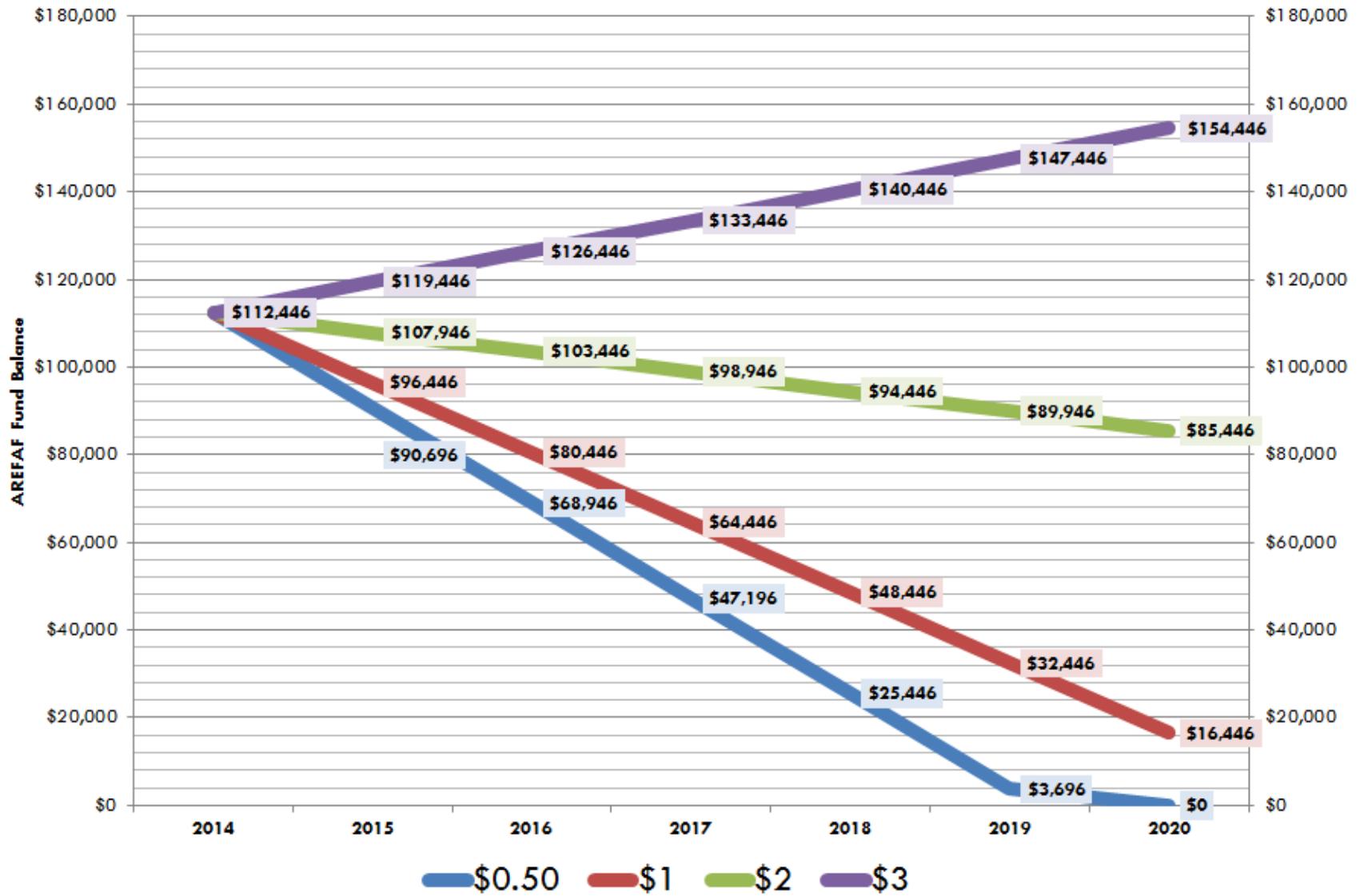
It should be noted that the fund was created by the Legislature for a purpose. To allow it to go to a zero balance would be contrary to legislative intent. However, without a source of revenue, the fund balance will continue to go down. The only questions are whether the fund will be diminished gradually or through abrupt and unpredictable losses.

The chart named “Projections: Reinstating the AREFAF Surcharge on Active Architects” shows four projected outcomes based on reinstating a fraction of the original \$10 surcharge (ranging from \$.50 to \$3) on Active-status Architects.

AREFAF Fund Depletion Projection



Projections: Reinstating the AREFAP Surcharge on Active Architects (four surcharge amounts shown for context)



RULE §1.52 Financial Assistance to ARE Candidates

1 (a) The fund established by the 76th Texas Legislature to provide financial assistance to Texas
2 ARE Candidates shall be administered by the Board or, if authorized by law, by an independent
3 scholarship administrator approved by the Board. As mandated by §1051.653 of the Texas
4 Occupations Code, the Architect Registration Examination Financial Assistance Fund
5 (AREFAF) shall be funded by a mandatory fee from all Texas registered Architects.

6 (b) A one-time maximum award of \$500 shall be awarded to each approved applicant. Each
7 scholarship recipient shall meet the following criteria:

8 (1) Each scholarship recipient shall be a Texas resident who has resided in Texas for at least 18
9 months immediately preceding the date the recipient submitted his or her application for the
10 AREFAF award;

11 (2) Each scholarship recipient shall be a Candidate in good standing or shall be an Architect
12 who completed the ARE during the 12-month period immediately preceding the date of
13 application for the AREFAF award;

14 (3) Each scholarship recipient shall demonstrate that the examination fee for the ARE would
15 pose or has posed a financial hardship for him or her; and

16 (4) Each scholarship recipient shall have attained passing scores on sections of the ARE for
17 which the combined fees total at least \$500.

18 (c) The Board shall not award an AREFAF scholarship to any of the following persons:

19 (1) any member of the Board;

20 (2) any employee of the Board;

21 (3) any person who assists in the administration of the AREFAF;

22 (4) any current or former member of the Texas Legislature; or

23 (5) any family member of any person described in subsection (c)(1), (c)(2), (c)(3), or (c)(4)of
24 this section.

25 (d) Each applicant shall apply for an AREFAF award on an authorized form available in the
26 Board's office or from an independent scholarship administrator that has been approved to
27 administer the AREFAF.

28 (e) Each applicant shall be notified of the approval or rejection of the applicant's AREFAF
29 application. Rejection of an application shall include an explanation of the reason for rejection.

30

Reference Document
Scholarship Eligibility
TBAE Web Site

Scholarship

The Architect Registration Examination Financial Assistance Fund (AREFAF) was created by the Seventy-sixth Legislature of the state of Texas.

Award

The award is a one-time reimbursement of \$500 for taking the Architect Registration Examination. The awards are presented three times each year. The application deadlines are January 31, May 31, and September 30.

Eligibility

Applicants must meet the following criteria:

- Have resided in Texas for at least 18 months immediately preceding the date of application
- Have passed sections of the exam for which the combined fees total at least \$500
- Have been approved for examination by TBAE and paid all required fees
- Have not been disciplined or been the subject of a pending enforcement proceeding by an architectural registration board
- Meet established financial requirements. On December 1, 2006, the income maximums (adjusted gross income as shown on most recent income tax return) were raised to \$52,000 (filing status single) and \$75,000 (filing status married) and \$63,500 (Head of Household).

Reference Document

AREFAF

Enabling Legislation

Section 1051.653. EXAMINATION FEE SCHOLARSHIPS.

- (a) The board shall administer scholarships to applicants for examination under this article in a manner the board determines best serves the public purpose of:
- (1) promoting the professional needs of the state;
 - (2) increasing the number of highly trained and educated architects available to serve the residents of the state;
 - (3) improving the state's business environment and encouraging economic development; and
 - (4) identifying, recognizing, and supporting outstanding applicants who plan to pursue careers in architecture.
- (b) In determining what best serves the public purpose of the scholarships as described by Subsection (a), the board shall consider at least the financial need of each person who applies for a scholarship under this section.
- (c) The amount of the scholarship is the lesser of:
- (1) \$500; or
 - (2) the amount of the required examination fee.
- (d) Scholarships under this section are funded by the amount added to each renewal fee under Section 1051.651(b). The board may not use more than 15 percent of the amount appropriated to the board for scholarships under this section to pay the costs of administering the scholarships.

Summary of Draft Amendments Regarding the “Rolling Clock”

Current Rules -- The Board’s current “rolling clock” rules establish a deadline for passing the registration examination for each of the professions regulated by the Board. A candidate must pass all remaining sections of the examination within 5 years after passing a section of the examination. If the candidate fails to pass all sections within that 5-year period, each passing score which predates the moving or “rolling” 5-year period becomes invalid and the candidate must pass that section again.

The rule allows for granting a candidate a single 6-month extension for the birth or adoption of a child during the 5-year period. The provision relating to the granting of an extension differs from the provisions applied by NCARB for extending the 5-year deadline.

Draft Rules --The draft rule amendments would bring the Board’s rule regarding extensions to the “rolling clock” period in line with the standards set by NCARB’s *Certification Guidelines*. The draft amendments make the following changes:

- Elimination of the restriction which allows only a single extension;
- Creation of a new extension for serious medical conditions;
- Creation of a new extension for active duty service in the United States armed forces; and
- Allowing the extensions for serious health medical conditions and active duty military service to continue for the duration of the medical condition or active duty service.

Under draft amendments, the extension for the birth or adoption of a child would remain at 6 months.

RULE §1.43 Reexamination

1 (a) A Candidate's passing grade for any section of the examination is valid for five (5) years.
2 Each Candidate must pass all sections of the examination within five (5) years after the date the
3 Candidate passes a section of the examination. A Candidate who does not pass all sections of the
4 examination within five (5) years after passing a section of the examination will forfeit credit for
5 the section of the examination passed and must pass that section of the examination again.

6 (b) The Board may grant extensions [~~one extension~~] to the 5-year period for completion of the
7 examination if the [a] Candidate is unable to pass all sections of the examination within that
8 period for the following reasons:

9 (1) The Candidate gave birth to, or adopted a child [~~because of the adoption or birth of a~~
10 ~~child~~]-within that 5-year period;

11 (2) The Candidate developed a serious medical condition within that 5-year period; or

12 (3) The Candidate commenced active duty service as a member of the United States military
13 within that 5-year period.

14 (c) [-] A Candidate may receive [~~request~~] an [~~one~~] extension of up to 6 months for the birth or
15 adoption of a child by filing a written application with the Board together with any corroborating
16 evidence immediately after the Candidate learns of the impending adoption or birth. A Candidate
17 may receive an extension for the period of the serious medical condition or for the period of
18 active duty military service by filing a written application with the Board together with
19 corroborating evidence immediately after the Candidate learns of the medical condition or the
20 commencement of active duty military service. A Candidate shall immediately notify the Board
21 in writing when the medical condition is resolved or active duty military service ends.

RULE §3.43 Reexamination

22 (a) A Candidate's passing grade for any section of the examination is valid for five (5) years.
23 Each Candidate must pass all sections of the examination within five (5) years after the date the
24 Candidate passes a section of the examination. A Candidate who does not pass all sections of the
25 examination within five (5) years after passing a section of the examination will forfeit credit for
26 the section of the examination passed and must pass that section of the examination again.

27 (b) The Board may grant extensions [~~one extension~~] to the 5-year period for completion of the
28 examination if the [a] Candidate is unable to pass all sections of the examination within that
29 period for the following reasons:

1 (1)The Candidate gave birth to, or adopted a child [~~because of the adoption or birth of a~~
2 ~~child]~~ within that 5-year period;

3 (2) The Candidate developed a serious medical condition within that 5-year period; or

4 (3) The Candidate commenced active duty service as a member of the United States military
5 within that 5-year period.

6 (c) [A] Candidate may receive [~~request]~~ an [~~one]~~ extension of up to 6 months for the birth or
7 adoption of a child by filing a written application with the Board together with any corroborating
8 evidence immediately after the Candidate learns of the impending adoption or birth. A Candidate
9 may receive an extension for the period of the serious medical condition or for the period of
10 active duty military service by filing a written application with the Board together with
11 corroborating evidence immediately after the Candidate learns of the medical condition or the
12 commencement of active duty military service. A Candidate shall immediately notify the Board
13 in writing when the medical condition is resolved or active duty military service ends.

RULE §5.53 Reexamination

14 (a) A Candidate's passing grade for any section of the examination is valid for five (5) years.
15 Each Candidate must pass all sections of the examination within five (5) years after the date the
16 Candidate passes a section of the examination. A Candidate who does not pass all sections of the
17 examination within five (5) years after passing a section of the examination will forfeit credit for
18 the section of the examination passed and must pass that section of the examination again.

19 (b) The Board may grant extensions [~~one extension]~~ to the 5-year period for completion of the
20 examination if the [a] Candidate is unable to pass all sections of the examination within that
21 period for the following reasons:

22 (1) The Candidate gave birth to, or adopted a child [~~because of the adoption or birth of a~~
23 ~~child]~~ within that 5-year period;

24 (2) The Candidate developed a serious medical condition within that 5-year period; or

25 (3) The Candidate commenced active duty service as a member of the United States military
26 within that 5-year period.

27 (c) [A] Candidate may receive [~~request]~~ an [~~one]~~ extension of up to 6 months for the birth or
28 adoption of a child by filing a written application with the Board together with any corroborating
29 evidence immediately after the Candidate learns of the impending adoption or birth. A Candidate
30 may receive an extension for the period of the serious medical condition or for the period of

31 active duty military service by filing a written application with the Board together with
32 corroborating evidence immediately after the Candidate learns of the medical condition or the
33 commencement of active duty military service. A Candidate shall immediately notify the Board
34 in writing when the medical condition is resolved or active duty military service ends.

NCARB Rolling Clock vs. Texas Rolling Clock

A rolling clock policy ensures candidates demonstrate competency on the entire domain of the examination within a set of period time.

The NCARB rolling clock policy and the Texas rolling clock policy are very similar. In fact, the NCARB rolling clock is based off what was the already existing Texas rolling clock. Since the Texas rolling clock went into effect more than four years prior to the NCARB rolling clock, the administration of exams for Texas' candidates is out of synch with NCARB data. Exams that would be considered still valid under NCARB's Rolling Clock may not be valid under the Texas rolling clock. After the final implementation of Resolution 2009-2 in July of 2014, the NCARB rolling clock and the Texas rolling clock will be in alignment as to the calculation of expiration dates.

The NCARB rolling clock policy is also more lenient on the granting of extensions. Texas limits extensions to birth/adoption of a child and only allows 1 per 5-year period. NCARB allows for extensions due to birth/adoption of a child as well as additional extensions related to active military service, serious medical conditions experienced by the candidate, candidate's partner, or candidate's child. NCARB does not limit the number of extensions that can be applied to a division.

	Texas Rolling Clock	NCARB Rolling Clock
Effective Date	February 1, 2002	July 1, 2006
Policy	Each individual division passed is valid for a period of five (5) years after which it will expire if all other divisions are not passed.	Each individual division passed is valid for a period of five (5) years after which it will expire if all other divisions are not passed.
Grandfathered exams	None -- all exams taken prior to 2-1-2002 were immediately governed by the Texas rolling clock.	Exams taken prior to 7-1-2006 are grandfathered until 7-1-2014 at which time they will expire if all other divisions are not passed.
Extensions	Birth/adoption of a child <ul style="list-style-type: none"> • 6-month extension • Limited to 1 per 5 year period 	Birth/adoption of each child <ul style="list-style-type: none"> • 6-month extension Serious medical condition <ul style="list-style-type: none"> • Length of Impact of condition Active military service <ul style="list-style-type: none"> • Length of Impact of service
Extension Process	Written application and corresponding documentation are required. The request must be submitted and received by the Texas Board prior to the candidate's current rolling clock end date.	A completed Rolling Clock extension request form and supporting documentation are required. The request must be submitted and received by NCARB prior to the candidate's current Rolling Clock end date.

3/27/2014